FINANCIAL INVESTIGATION OF DRUG TRAFFICKING

HEARING

BEFORE THE

SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

FIRST SESSION

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FINANCIAL INVESTIGATION OF DRUG TRAFFICKING

FRIDAY, OCTOBER 9, 1981

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON NARCOTICS, ABUSE AND CONTROL,
Fort Lauderdale, Fla.

The committee met, pursuant to call, at 9 a.m., in city hall, Fort Lauderdale, Fla., Hon. Leo C. Zeferetti (chairman) presiding.

Present: Representatives Leo C. Zeferetti, Earl Hutto, Benjamin A. Gilman, Matthew J. Rinaldo, and E. Clay Shaw, Jr.

Staff present: Patrick L. Carpentier, chief counsel; Roscoe B. Starek, minority counsel; John R. Thorne, investigator; Edward H. Jurith, counsel; and James J. Heavey, press officer.

Mr. ZEFERETTI. Ladies and gentlemen, will you please find your seats?

Good morning ladies and gentlemen. Today, the Select Committee on Narcotics Abuse and Control will conduct a public hearing on the efforts of the Federal Government to identify, seize, and forfeit the profits and assets of narcotics traffickers.

At the outset, I want to thank Mayor Virginia Young of Fort Lauderdale for allowing the select committee the use of the Fort Lauderdale city hall for this hearing. The cooperation of public officials, such as Mayor Young, is an essential ingredient in our fight against these merchants of death and human destruction.

I would also like to welcome the State's Advisory Youth Council.

Today's hearing will focus upon existing legislation that gives Federal investigators the ability to trace the vast amounts of money gained by drug dealers. The Bank Secrecy Act is paramount among these tools. Today, we will examine the act's effectiveness, the impediments to its more fruitful implementation, and areas for the act's improvement. We seek to solicit suggestions for legislation that will enhance the arsenal of Federal investigators to ferret out the financial strongbox of the drug trade; a strongbox that can keep a continual flow of drugs coming into this country; a strongbox that can post unheard amounts of bail; a strongbox that can, no matter how many traffickers we put behind bars, sustain an ongoing criminal organization.

The select committee staff has visited south Florida often in the past few months. They have reported back to us in Washington that an atmosphere of fear is gripping this area of our land: There is open violence in the streets; an atmosphere prevails that prevents yachtsmen from boating for fear of hijacking at sea; boatowners are unsure of renting to strangers fearing they will traffic in drugs with their craft; legitimate bankers are refusing large

cash deposits from unknown customers; and the local economy is artificially inflated by enormous amounts of cash driving up real estate and consumer prices. South Florida is the front line battlefield in the war against drug trafficking.

In the atmosphere of fear, the Federal Government has initiated positive actions. "Operation Greenback," a joint IRS, Customs, DEA, and Justice Department venture, deserves our utmost support for its innovative techniques. We also compliment the FBI for its joining the fight against the financial gains sought by narcotics traffickers.

I do not believe it can be overstated that the elimination of the vast profits traffickers thrive on is the most effective weapon in the war against drug traffickers. Obviously, the conventional law enforcement tool of imprisonment is, alone, insufficient to do the job. We must attack the financial heart of narcotics trafficking organizations and lay them to rest. Our objective today is to identify endeavors in this area and to strengthen them.

Before we begin testimony, I invite my colleagues to make opening statements. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman. First, I want to associate myself with your remarks and to commend you for arranging this hearing at a time when we have been receiving alarming reports of the escalating drug trafficking operations and the laundering of vast sums of drug dollars in southeastern Florida.

I am delighted to participate with our colleagues from Florida, Mr. Hutto and Mr. Shaw, in this vitally important hearing. I have been informed that Congressman Shaw, who has been so kind to host this meeting, will be joining us in just a few minutes—he began his day at 10 o'clock by addressing a parent/teachers conference on drug education and prevention.

Three years ago we held hearings in southeastern Florida. The testimony we received at that time convinced us that we were in the middle of what we then called a catastrophic and overwhelming drug disaster. At the conclusion of those hearings, we wired the top drug administrators in the White House, the State Department, the Drug Enforcement Administration, and U.S. Customs Service, and stated, from the results of the hearing, that what we have seen in this area convinces us that this region is in the middle of an overwhelming drug disaster. We further stated, as in any other natural disaster faced by our Nation, the situation must be countered by whatever means are necessary, and whatever material is needed to cope with that problem.

We stated that the situation is so serious that we must take immediate action to stem the tide of illegal drugs into the United States through south Florida. As you recall, the White House, then, did respond to the request. Subsequent to our 1978 hearings, our select committee met with key drug law enforcement officials that outlined a Federal response by the executive agencies. Although that response was a step in the right direction, it did lack the necessary presidential commitment to maintain the initiatives.

Today we have a new administration. Some of the key drug law enforcement officials are now on board; but, unfortunately, the drug trafficking problem, both in this region of the United States and throughout the world, is growing by leaps and bounds. We still

do not have a comprehensive, coordinated Federal drug strategy that is needed to interdict drug trafficking, to properly eradicate the illegal drugs at their source, educate the public regarding the danger of drug abuse, and treat and rehabilitate those individuals who are addicted to or who are dependent upon drugs.

Mr. Chairman, it is extremely important that our select committee examine the illicit financial transactions that are generated by the narcotics trafficking activities of organized crime. We hope some improvements can be made since we last visited and explored this critical area.

We hope from these hearings we will be able to determine how narcotics profits are being laundered, just where the funds originate and who controls the laundered cash. We also hope that this administration will elevate narcotics trafficking and drug abuse to a top priority on its agenda. The administration must elevate narcotics trafficking and drug abuse to a top priority.

We must develop a comprehensive, coordinated Federal drug strategy to come to grips with this perplexing problem; otherwise, our Nation will have lost the war on drugs, and future pronouncements about such a "war," "war on crime" will become empty, rhetorical slogans, endangering the defense of this Nation and the health of all of our citizens.

I am pleased to join you and our distinguished colleagues in participating in these hearings, and look forward to the testimony.

Mr. ZEFERETTI. Thank you. Mr. Hutto.

Mr. HUTTO. Thank you very much, Mr. Chairman.

As a member of the Florida delegation, I want to thank you for arranging this hearing. Thank you for your dedication in trying to do something about the tremendous problem that we have in our Nation.

Of course, I am very pleased that we have distinguished officials from our State, the Honorable Bob Graham and Attorney General Jim Smith, and others, throughout the day, who will be heard by this committee.

I come from a different section of Florida. I mentioned to somebody a few minutes ago, coming from Panama City to Miami is like going to Chicago. We do have a big and wonderful State in the Land of Sunshine. We are a land of opportunity, a State that has many problems and 9 million people; and others continue to come to enjoy what we have here. But with all of this, we have many, many problems. I am glad to know that our Governor and other officials of Florida have emphasized the fact that we have problems that need to be addressed nationally, because of the immigration problems we have and, also, the drug trafficking.

Florida is bearing the brunt of a lot of activity that needs attention. So I am very pleased that you are here, and I look forward to participating with you and our colleagues in this hearing today.

Mr. ZEFERETTI. Thank you. Mr. Rinaldo.

Mr. RINALDO. Thank you very much, Mr. Chairman. I want to join you in welcoming such distinguished witnesses to our hearing this morning. Further, I want to take this opportunity to commend you for holding this hearing, because, as has been pointed out, it is an extremely important topic. Certainly your dedicated efforts are well-known in this area and as chairman of this select committee.

As you have indicated in your opening statement, the select committee is here to gather additional information regarding the efforts of the Federal Government to investigate drug traffickers, and to identify, seize, and forfeit the vast profits obtained in the illicit drug trade. I think we will all agree that this is one of the most urgent problems facing our Nation. It is an epidemic. It is an epidemic that has affected the cities, urban centers, and even the suburbs. It is spread throughout the country and is all pervasive. The epidemic in illegal drug trafficking and the rash of drug-related crimes are terrorizing our citizens from the east coast to the west coast and from the North to the South. It is a desperate situation that the Congress and the new administration must curb by intensifying law enforcement efforts designed to take the profit out of drug dealing and increase the risk of apprehension and prosecution for those who would engage in this illicit activity.

The rewards are so great for big time drug dealers—as I am sure today we will hear from the witnesses—that they are willing to take risks; and they do so, unfortunately, in many cases with impunity. I am appalled, as is every member of this committee, by the flagrant abuse of our laws. I am concerned that the situation will continue to grow worse unless we find more effective measures to deal with the drug runners and the drug peddlers.

I look forward to hearing from our witnesses today on how we can best proceed to rewrite our laws, and to enforce the existing laws, so that we can properly deal with what I would label as a national crisis.

Thank you, Mr. Chairman. I look forward to the testimony of our very, very distinguished witnesses.

Mr. ZEFERETTI. Thank you, Mr. Rinaldo.

Without objection, at this time I ask unanimous consent to submit testimony from Congressman Joseph Minish, who is the chairman of the Subcommittee on General Oversight and Renegotiation of the House Committee on Banking, Finance and Urban Affairs, who was unable to be with us this morning.

[The statement of Representative Minish follows:]

PREPARED STATEMENT OF JOSEPH G. MINISH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman, members of the Committee, I wish to commend you for taking the initiative to hold hearings on the Bank Secrecy Act here in Miami, where the drug trafficking problem seems so severe.

The Subcommittee of which I am Chairman, the Oversight Subcommittee of the House Banking Committee, has had a long-standing interest in the enforcement and use of the Bank Secrecy Act. We first examined this law at hearings held in November of 1979. Since then, we have looked at it in hearings in October and December of 1980 and in July of 1981. We commissioned an extensive study of the Bank Secrecy Act by the General Accounting Office and received the GAO's final report on July 23d of this year. Throughout the period of our interest, we have been exerting considerable informal pressure on the Treasury and the regulatory agencies to ensure proper enforcement and use of the Bank Secrecy Act. Since you assumed the Chairmanship of the Select Committee on Narcotics, Mr. Zeferetti, we have enjoyed working with you on this matter and we appreciate the substantial contributions you have made to our July hearings and to the overall effort to strengthen the effectiveness of the Bank Secrecy Act.

I think our efforts are beginning to show results. Both the Treasury Department and the bank regulatory agencies have begun to show a stronger commitment to enforcement of the Act. The regulatory agencies have changed their examination procedures and, at least on paper, it looks as if the new procedures will force

financial institutions to take Bank Secrecy reporting requirements more seriously. The IRS has initiated a program to improve the completeness and accuracy of currency transaction reports. It appears that the Treasury and the Justice Department enforcement people are learning to make better use of Bank Secrecy information.

Although the focus of my Subcommittee's investigation was on what was going on at the banks and at the Treasury Department, I don't want to give the impression that we were unaware of the ultimate consequences of a strong Bank Secrecy Act. I think that this law, when properly used, can be one of the most effective tools at our disposal for catching and convicting drug traffickers. The successes of Operation Greenback and other enforcement efforts are beginning to demonstrate this. I think it is safe to say that, without the Bank Secrecy Act, there would be no Operation Greenback.

Despite some successes, however, I believe that financial information of the type collected under the Bank Secrecy Act can be used much more extensively than it is. This is a proper focus for your Committee hearings today. I don't think it's possible to be too strong in attacking drug dealers, so I hope that you will use the occasion of today's hearings to put even more heat on the people who are literally poisoning our country. I am confident, Mr. Zeferetti, that you are capable of doing just that.

Thank you for requesting my opinion and I look forward to working with you on this issue in the future.

Mr. ZEFERETTI. I would like to introduce our first witness, the Honorable Robert Graham, Governor of Florida. Governor, thank you so very much for taking time out from a hectic schedule to be with us and for taking the time to understand our efforts in this part of the country, and in all of our country.

I think it is essential that we work together on the efforts necessary to make an impact on the overall problem. It is essential, too, that we offer you our cooperation and our effort in formulating the legislative recommendations that can make your job a little bit easier.

I welcome you, sir, and welcome you on behalf of the committee. You may proceed in any manner you feel appropriate.

TESTIMONY OF HON. D. ROBERT GRAHAM, GOVERNOR OF THE STATE OF FLORIDA

Governor GRAHAM. Thank you very much, Mr. Chairman, and members of the committee. We also extend a warm welcome to you and grateful appreciation for your being in our State today. The subject that we will be considering is one that goes to the heart of many of our most pressing concerns in Florida, as I will discuss later. This issue permeates our State's life in a very substantial and negative way. I hope that I will be able to demonstrate to you that the citizens of Florida have made a strong commitment to dealing with this problem. We are asking for the necessary partnership with the Federal Government to make that commitment meaningful.

I also appreciate, Mr. Chairman, the focus that you have given to the economics of this issue. There will be other witnesses that will talk specifically to the details of Federal legislative changes that might more effectively arm us to disarm the dollars that have flowed into the pockets of those who have engaged in these illicit transactions. I am going to talk about another dimension of the economics; and that is, the necessity of government, as the representative of the public and those responsible for the protection of our people, to be prepared to make an economic, a resources commitment to deal with this problem.

I would like to say a word on behalf of the Florida congressional delegation. We have had many issues in this State in recent years which have been national but which have especially impacted Florida and, therefore, on occasion after occasion we have had to call upon our congressional delegation to be a voice for those national issues, based on their special familiarity with them, because of their heavy location in our State. And I would like to commend Congressman Hutto and his colleagues. Without exception, they have heard that call and have been extremely responsive and effective in dealing with these issues. And I am confident that the concerns that we are going to be discussing today will similarly strike a responsive chord with the members of this committee, who are well-informed on the severity of this issue and its national importance, and that you, in turn, will be better armed to carry this message to your colleagues where we will look ultimately for a national response at the scale that the problem demands.

Much of what I am going to be doing today is sharing with you a frustration: a frustration that is felt by many Floridians about the evil effects on our State of illegal drug traffic, and a more specific frustration about the Federal response today to this problem. Many Floridians are beginning to ask if Florida has, through some secret process, been cut off from the benefits of being one of the United States. When thousands of illegal aliens began to swamp our State and seriously drain our human services resources, the Federal Government spoke of its concern, but did little. And when it became obvious that Florida alone could not turn back another destructive tide—that consisting of billions of dollars worth of illegal drugs—we again heard words of great concern, followed by little action from the Federal Government. So, Florida has shouldered the burdens of these two problems. It is this unequal load that produces our frustration.

Florida has armed itself for this war as best it can. I would like to review some of the initiatives that have come from the State. In 1979, we enacted a law providing for minimum mandatory penalties for narcotic trafficking, which is a model for proposals in several other States. Under our law, anyone convicted of trafficking in 10,000 pounds or more of marihuana must receive a minimum sentence of 15 years. This sentence may not be shortened, and the 15 years must be served before the convict is eligible for parole. This sentence may only be reduced if the convict provides substantial help to law enforcers; particularly, help in moving up the chain of command of the drug conspiracy. We have passed similar laws covering cocaine, opium, PCP, and Quaaludes. At least three States and the Virgin Islands have followed Florida's lead and adopted this legislation. It is also under consideration in approximately 16 States and Puerto Rico.

I would like to show you a chart relative to the financial commitment which the State of Florida has made. The last 2½ years, we have increased the staffs in our State prosecutor's offices by 802 positions and added 67 special agents to the Florida Law Enforcement Department and 198 troopers to the Florida Highway Patrol. Due to this increase our prosecutors will not be as likely to plea bargain with accused drug traffickers in order to reduce almost intolerable caseloads, and there will be enough prosecutors to allow

some to be involved in complex trafficking cases that involve a variety of laws and jurisdictions. Now the highway patrol can relieve local law enforcers of some of their traffic law enforcement duties so that these local policemen can fight more dangerous crime, including that associated with drugs. Now the Florida Department of Law Enforcement has the resources to answer its mandate to be the lead agency in the State in enforcing drug laws.

In the past 2 years, we have created within FDLE the Florida Narcotics Information Center to collect, coordinate, analyze, and distribute among State and local law enforcers information about drug-related crimes and operations. But, Mr. Chairman, the nationwide market for these drugs dwarfs the resources we can apply to stop the flow. Between this huge U.S. market and the Caribbean sources of these drugs lies Florida, a natural connection of supply and demand.

Since this trade is illicit, exact figures about its size are naturally unavailable. But a recent report from the Federal General Accounting Office contains an estimate that the drug trade through south Florida in 1978 totaled $7 billion. With that much money involved, it is particularly important that you have come here to see how Federal banking laws can be used in this fight against drug trafficking. It is a big problem that requires all the ingenuity we can bring to bear.

The problem has many manifestations. This drug business has dramatically increased the number of homicides in our most populous county, Dade, and has contaminated our public and private institutions. In 1980, there were 77 drug-related homicides throughout Florida; of these, 60 occurred in the south Florida counties of Dade and Broward. The year before, city of Miami police investigated 35 drug-related homicides, and the Dade County Public Safety Department investigated 42. We are doing what we can with our limited resources and we Floridians are always looking for more effective ways to bring these resources to bear against our gigantic foe.

But, at best, we alone can only win skirmishes, without an effective Federal partnership. The battle against illegal drug importation in Florida can become a winnable war only when the Federal Government decides to vigorouly join the fight. I was heartened by the recent announcment that 100 customs officials will be reassigned to south Florida. But I was discouraged to hear that President Reagan, despite his pledges to fight crime, is actually planning to cut Federal crime-fighting budgets. Although final congressional action has not been taken—and I am very pleased that we are having this opportunity to discuss this issue before it is taken—a review of the latest requests from President Reagan show that he seems bent on reducing the budgets of the main Federal agencies fighting drug crimes.

The chart of the budget in 1981 with the recommendations as of January 1981, March 1981 recommendations, and now with the September 1981 recommendations, have gone to the major law enforcement agencies. The President has recommended that $47.5 million be cut from the January 1981 request for the FBI; $35.2 million from the January 1981 request of the Drug Enforcement Administration; $11.4 million from the January 1981 request for

U.S. attorneys; $195.2 million from the January 1981 request for the IRS; $59 million from the January 1981 request for the Customs Service—and this is particularly disturbing to Florida because of our double concern for drugs and illegal immigration—$236.3 million from the January 1981 request for the U.S. Coast Guard. I see no way we can believeably say we are toughening our stance against crime while we are severely cutting the budgets of crime-fighting agencies.

In the slightly less than 3 years since I became Governor, we have also taken a tough stand against crime. But in that time, we have added $57.5 million to the budgets of our crime-fighting agencies—an increase, in less than 3 years, of 75 percent. The Federal Government must also commit its resources if we are to be able to fight the corrosive effects of big-money drug smuggling on our society.

Our society is being seriously corroded, not only by those who are unfortunate enough to suffer from the use of these drugs but also from the broad perception that this Nation cannot or will not enforce its own laws against these drugs. The people of America want their Federal Government to act. Two years ago, I went to Colombia, with a delegation organized by the United States of America, to discuss with the leaders of that country what we could do to cut the flow of illicit drugs from Colombia to Florida. They were singularly unconvinced that the United States seriously wanted to enforce its own drug laws, based on the Colombian perception of how little the U.S. Government was willing to do to stop the drug trade. I found myself in the midst of a Caribbean face-off, with Colombians and Americans standing at opposite sides of the sea doubting each other's sincerity.

To answer the questions of our commitment to fighting drug-related crime, I would like the Federal Government to take several actions. The Federal Government should support a reinstitution of spraying herbicides on drug crops in other counties, a process which has been proven in the past to be extremely effective in reducing heroin from Mexico and Turkey. The Federal Government should modify the concept of posse comitatus to allow information sharing between Defense Department agencies and civilian law enforcement agencies seeking drug smugglers. The Federal Government has to commit its manpower in sufficient numbers to effectively cut drug supply routes. The Federal Government has to share tax information collected by the Internal Revenue Service with appropriate State and local crime-fighting agencies. Federal prosecutors should fully cooperate with State prosecutors to get these smugglers jailed. Federal drug smuggling laws should be as tough as Florida's. I would recommend a consideration of the utilization of the kind of minimum mandatory sentencing procedures with relief only available when positive assistance is offered as a technique, which we have found to be increasingly effective in Florida. I believe it would be beneficial at the national level.

In essence, Mr. Chairman, Floridians want their Federal Government to be as appalled as they are at the size of drug smuggling and to be as driven as they are to wipe these smugglers out of business. Florida, not by its citizens' choice but because of its location, is this country's main drug war battleground. Florida's

attorney general, Jim Smith, and others, will recommend how the Federal Government can best join the battle. I am here to tell you that Florida, acting virtually alone, has held part of the battlefield for several years. But the enemy is gaining strength from the Federal reluctance and we law-abiding Floridians are getting more and more frustrated. Your presence here is encouraging, and we hope it marks a new level of Federal interest and commitment to finding innovative ways of crippling drug smuggling in Florida. Rest assured that Florida officials will do all we can to help your work.

Thank you, Mr. Chairman.

Mr. ZEFERETTI. Thank you, Governor Graham, for a very comprehensive statement. If I can, let me comment on a couple of issues that you brought up. One, the type of legislative effort that you are recommending is presently being worked on in Congress right now. As a matter of fact, some of the subcommittees that have jurisdiction have already passed some of those very laws. Posse comitatus, the repeal of the Percy amendment on the spraying of herbicides; these things are going forward, and I am certain in the very near future you are going to find them as a tool for working effectively.

You bring up an interesting subject when you talk about minimum mandatory sentencing. We in New York have had that kind of a judicious effort against drug smuggling and drug trafficking, and we found when they had those kinds of mandatory sentences everybody wanted to go to trial; and as a result our courts were overloaded with calendars that made it almost impossible to get any work done. Beyond that, we found—as it is in Florida, New York, around the country—we found our jails overcrowded to such an extent that we are finding ourselves sort of put down by the Federal courts as far as minimum standards are concerned.

I am a great believer that it is great to have a lot of policemen, and I am an ex-law enforcement officer. But at the same time unless you give priorities to the rest of the system—we are putting a lot of people out there, and creating an awful lot of arrests but clogging up the system in such a way that we are not really doing an effective job. We find ourselves with more people on the street than should be off the street and incarcerated to protect society.

Do you find yourself—with the mandatory sentencing going into effect, do you find yourself with an overload of case work and your jails becoming overcrowded? What kind of effort can you make without the budgetary considerations and priorities that you need to have an effect in that whole problem?

Governor GRAHAM. Mr. Chairman, you are probably familiar with the television advertisement of the automobile mechanic who says, "You can pay me now or you can pay me later." That analogy applies to this situation. There is a tremendous cost to drug traffic. There is a cost if we let it go undetected and take a less than fully aggressive stance against it. There is a cost to mount the war, to go to battle. I believe that we have no choice but to mount that war. As our figures indicate, we recognize this means a substantial public commitment of dollars. We also recognize what you have said so effectively, that it has to be a balanced system. You have to have resources at the police level for effective detection and investigation. You have to have resources at the prosecutorial and judi-

cial levels, so that you are not placed in the position of having to plea bargain cases because you do not have sufficient judges or prosecutors to handle the cases. You have to have the prison capacity to incarcerate those individuals.

We in Florida are preparing and have taken those necessary measures so that we will have a system that can complement the strength of our laws; so that people know that if you do engage in large-scale drug trafficking in Florida you are going to jail for a long time, and you will not have any means of relief unless you participate in a meaningful way in breaking the drug conspiracy.

Mr. ZEFERETTI. I am grateful to hear that, and I do not want you to misunderstand what I am trying to say, because I am for stiffer sentences. But I think when we do that sometimes we defeat ourselves if we don't give ourselves the priority to augment the system to work in a proper way. I am sure when the attorney general gets up to testify, he will lend himself to the problems of bail reform and the like, which are an integral part of what we are talking about.

Hopefully, on the legislative side, we can provide the types of tools that you outline to make that job a little bit easier to put them away and to get the proper assistance and money. But with the budgetary cuts we are facing now, which you indicated and which are coming out of Washington at the present time under the present administration, we find ourselves pretty well strapped when it comes to giving aid to those agencies that have the responsibility.

We have been trying to shore it up, as an auxiliary to that—we believe—strategy that includes business, industry, government, churches, all playing a role, whether it be on a Federal or local level. Working together is the only way we are going to attack this whole effort. We find ourselves all too often worried about the amount of money we are spending and not looking at the human effect we are avoiding to confront by virtue of not spending that dollar. So we are looking for a Federal strategy to combine all of those efforts and make one collective effort out of it. Legislatively, we have problems. We need your input on a local level to tell us also how those various laws affect you, how they come down on a local level, and how they make it possible for us to function more efficiently. So as you indicated in your opening statement, you commended your local Congress people, they are the ones that are carrying your message to this committee and, hopefully, through other committees we can make that kind of effort.

Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

Governor, we certainly appreciate your attending and presenting this analysis of where we stand in the Florida area. Of course we recognize we are not giving the kind of dollars that should be placed among various law enforcement agencies. Unfortunately, the economy has required us to cut back the budget a bit in every direction.

I hope that we are going to be able to turn the economy around so we will eventually have improvement in all of these areas.

It is not just dollars that are going to resolve this problem. We are going to need some serious initiatives in all directions. We

appreciate your recommendations with regard to various legislative needs, and as our chairman has indicated to you, a great deal of that has been adopted already. The herbicide spraying, the Senate has repealed the Percy amendment, and the House Foreign Affairs Committee has passed that portion of the bill, the foreign aid bill, and it is now awaiting full House action, and I would assume we are going to be able to address that in the near future.

With regard to military action, the posse comitatus measure, both the House and Senate have adopted that measure in the Department of Defense appropriations bill that is currently in conference. We hope that will soon be adopted.

With regard to IRS hearing information, Senator Nunn and Congressman Gibbons both have introduced legislation with that objective in mind. The administration is now preparing a tax reform bill, and we hope that that will come before both houses very shortly.

And with regard to tougher Federal drug smuggling laws, the Criminal Code reform bill, passed by the Senate and now having been reported out of the House Judiciary Committee last year, contains a great deal of legislation in that direction, providing stiffer penalties for trafficking and illicit narcotics involvement. Both bills are being considered in committee, and again this year we hope to have them on the floor. So your initiatives are well founded, they are being undertaken, and we hope they will soon be in place to help.

Do you have any other initiative suggestions that we could undertake to combine the efforts of the Federal and State government besides just throwing more money into the pile, which apparently has helped but not made a major dent in drug trafficking in the past?

Governor GRAHAM. Mr. Congressman, you have, in reviewing the comments I have made, touched on the major priorities that we have identified as being helpful to our State. I must return to the question of resources, however. I discussed on the way here this morning with one of our experienced FDLE agents—who happens to have an extended previous career in Federal law enforcement—what he thought would be the most effective thing the Feds could do in south Florida. His answer was resources, that the State and local agencies are constrained in their ability to be effective. If those functions of Government which are exclusively national functions, such as coastal patrol, Customs interdiction, are not effectively staffed, and we have seen in the past period in this area a consistently strained and diluted Federal presence in those areas.

As an example, there is now going to be some diversion of equipment that has been used for general Coast Guard functions, including law enforcement, to an enhanced effort to resist illegal immigration. We very much applaud that effort, but have to express a concern when it is mounted out of the already inadequate resources that are in this community to resist drug trafficking and other important law enforcement functions. I would suggest, as national policy seems to be moving to a division between those things that are national security in nature—and those being given preferred, increased position—and those functions that are considered to be domestic, that that issue of law enforcement specifically

related to fighting drug trafficking, is very legitimately an issue of national security. If there is one thing that a nation must be able to do, it is to protect its citizens. And while in our country we wisely divide law enforcement among a variety of local, State, and Federal agencies, the dimension of protection of our citizens against illicit activity which has an origin external to the United States is exclusively a national responsibility. So failure to accept that dimension of national security as a priority national responsibility is going to result in a continued avalanche of those drug-related problems domestically within the United States.

Mr. GILMAN. We will all concede that manpower and equipment certainly are essential tools in the battle against narcotics trafficking. But what I am seeking from you is, do you have any new strategy initiatives that will assist us in our continuing war on narcotics trafficking.

Governor GRAHAM. Let me suggest, this is not new in the sense that our State and others have been using it with increasing vigor, and that is, in trying to capture the resources of the illicit operation to then help support more adequately the law enforcement efforts in the future. We have recently reformed our laws which deal with the confiscation of real estate, airplanes, boats, and any other type of real or personal property which is used as part of a drug conspiracy and facilitated the conversion of that into useful equipment for law enforcement or cash that can be used to support law enforcement.

I would suggest a review of, or to the degree to which that is being used by Federal agencies as a means of providing funding which through traditional channels is being recommended for reduction. It also strikes directly at the same pocketbook that you are concerned about, the bank accounts. If you can take away the land or the fancy boats or airplanes that were used in the conspiracy but also are the places in which the profits are converted, you have struck a heavy blow at the economic nerve end of the drug traffic.

Mr. GILMAN. You are talking about forfeiture laws. I happen to be a sponsor of one of those measures to try to provide the forfeiture funds for drug enforcement purposes.

I am also curious, you say you met with some of the Colombian officials, this committee has felt if we could get to the producing areas and do more good, we could prevent the great amount of drugs that are reaching our shores and be more effective at the source rather than to try to prevent it in the distribution end.

Governor GRAHAM. I met with President Turbay 2 years ago this month. Our Ambassador to Colombia was Diego Arsencio, who is now head of the Consular Corps in the State Department, and I, individually, would recommend him as a possible source of assistance to this committee. Ambassador Arsencio had informed us that he felt the new government in Colombia would be responsive to U.S. assistance at the source of supply, a drug initiative; that is, particularly, a herbicide spraying effort. It was at the same approximate time that the Percy amendment was passed, which precluded the United States from participating in that kind of an effort except if conditions could be met, which, as I indicated in my remarks, the Colombians felt to be a signal of a lack of sincerity.

It is very important that we use this opportunity with friendly governments, and we have a friendly government in Colombia, another one in Jamaica, to mention two countries that have been suggested as major areas of external concern—that the repeal of the Percy amendment and a vigorous effort at the diplomatic level to initiate those bilateral agreements would be extremely timely and, I think, the most cost-effective initiative that we could mount.

Mr. GILMAN. Both Colombia and Florida seem to have a similar problem of about $7 to $8 billion in illicit trade. I see back in 1978 you estimated your illicit trade to be about $7 billion. Has it exceeded that at the present time?

Governor GRAHAM. The estimate I gave you was the estimate that comes from the General Accounting Office, which seems to be as reliable a source of information on this. I would have no information that the conditions since 1978 have slackened; if anything, the volume has increased.

Mr. GILMAN. Has your State done anything to try to get to the source of the laundered funds?

Governor GRAHAM. Yes. Our comptroller, who I hope will be sharing information with you today, is responsible for banking regulation and can speak in more detail. But in my discussions with him and with our law enforcement officials and with our State's attorneys in the areas most affected, they have developed a cooperative effort at attacking those financial institutions which are under State jurisdiction as it relates to the allegations of misuse for drug and other criminal activities. I think he would be in a better position to discuss whether there are some areas of Federal law reform that would facilitate State-Federal banking and law enforcement efforts, because with our mixture of State and Federal regulation over much of our financial community that kind of partnership is crucial if we are to be effective.

Mr. GILMAN. One last question. With the fiscal problems at the Federal level and trying to cut back in every direction and bring our Federal budget within our needs, a greater amount of responsibility is going to be placed on the shoulders of State governments. Have you recommended any increase in enforcement in the narcotics effort as a result of the anticipated cutback in the Federal budget?

Governor GRAHAM. We have increased, at the State investigative and prosecutorial level, by approximately 75 percent, our funding levels over 1978. The budget that I will be submitting to the legislature in January will contain another substantial increase in our State budgets for those same functions.

Mr. GILMAN. I want to commend you for the efforts you have been undertaking.

Thank you, Mr. Chairman.

Mr. ZEFERETTI. Mr. Hutto.

Mr. HUTTO. Thank you, Mr. Chairman.

Thank you for a very eloquent statement. You have demonstrated time and time again that you can make hard decisions, and your report here shows vividly that you are serious about the problem of crime in our State. I think you and the legislature have done a fine job in trying to do what you can about beefing up our law enforcement agencies and passing the proper legislation to deal with the

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many problems that we have. I want to thank you for your wonderful cooperation with our Florida delegation, and also thank you for your consistent efforts, by you and other Florida officials, in trying to focus on and to bring to the attention of the Nation that we have problems in Florida which should be addressed in Washington in a more serious vein. You have been to Washington time and time again, and I believe that the message is beginning to come through.

Our chairman indicated, and Congressman Gilman indicated, we are doing some things that hopefully will be helpful to Florida, and I want to make mention of the fact that our colleague, Congressman Charley Bennett of Jacksonville has been at the forefront of doing something about the posse comitatus law to allow the military to help us—and they can help in a big way—and he was very effective in our Armed Services Committee when we were able to get this amendment in the defense authorization bill; and when it came to the floor, Congressman Clay Shaw was very effective in helping. So I do think we are moving forward in the right way. As Mr. Gilman indicated, it passed the Senate and is in conference, so I do feel we will have legislation in place that should be effective quite soon.

I think this is going to be a big help along with repeal of the Percy amendment for the herbicide spraying. Senator Chiles has long been active in the Senate, and others, so these are two things that definitely will be forthcoming shortly to help.

You mentioned mandatory sentencing, and it might be that I should address these to Attorney General Smith later for the specifics, but as you know, I was in the Florida Legislature when we passed the minimum sentencing law for crimes committed with a handgun. I am not as familiar with your more recent legislation regarding minimum sentencing related to drug trafficking crimes and so on. It is my understanding that the minimum sentencing law that we passed has been effective as a deterrent; and not only for the fact that the criminals know they are going to be dealt with severely but, also, it has been a good public relations thing for all of our populace, because we have been able, it seems to me, to promote the fact that they are going to be dealt with and they are going to have to serve a minimum sentence if they are convicted of those crimes, because we have had it on billboards, public service announcements and this type of thing.

I would like for you to comment on how you feel the minimum sentencing is working. Is it helping as a deterrent?

Governor GRAHAM. Mr. Congressman, we have had several years of experience with 3-year minimum mandatory sentencing for the use of a firearm in the commission of a crime. That has been effective. Its effectiveness is in significant part a function of the strength of the rest of the system, as your chairman pointed out. It is imperative that the criminal element feel that if they do commit that type of offense that there are enough police to make an effective arrest in a case, that there are prosecutors who will bring that effectively before a jury, and a judge that will in an expeditious way render the sentence, and a jail in which they will be located.

As long as we maintain our commitment on the side of the resources to make the law meaningful, I think that minimum mandatory sentences in specific, high-visibility, high-impact areas can have a positive effect on the reduction of crime. We have seen with our minimum mandatory drug law, which has been on the books for approximately 2 years—it took the better part of 1 year to go through a series of judicial challenges which has now been held to be constitutional, at least by our Florida Supreme Court.

We have developed investigative information, through wiretaps and other devices, that will indicate that drug conspiracies which had previously been organized in this State purposefully moved to another State in order to avoid the application of our law should they be detected. That is some additional impetus for this kind of a procedure to be national in scope, so that we don't solve our problem by creating a problem for somebody else.

Mr. HUTTO. If I hear you correctly, you would recommend that there be mandatory sentencing on a national level for some of these problems that are national in scope?

Governor GRAHAM. Yes, sir.

Mr. HUTTO. I know we are specifically trying to focus in on the money situation with regard to drug trafficking today. It is obvious when you get someone in the pocketbook you hit them where it hurts, and this is certainly true of drug trafficking. Do you believe that there is some national legislation regarding people involved in the money aspects of this that should be forthcoming? When we spoke of the minimum sentencing, we have been speaking mainly of the guy who is wielding the gun. How about minimum sentencing for crimes that are related to the crime but not the actual guy who has been involved in the violent part?

Governor GRAHAM. Our Florida law relates to anyone who is involved in the conspiracy. One of the objectives is, as you detect the captain of the boat who is caught or the offload crew, that they face the prospect of spending 10 or 15 or up to 25 years in prison they will be more likely to indicate who it was that paid them the $250,000 for the use of their vessel, and through that device you can move up the chain of command and get the people who are the real conspirators in the drug trade.

As to Federal laws that can attack the pocketbook, the sharing of IRS information with law enforcement officials, which I understand was close to being enacted by Congress in the last IRS reforming legislation—and I am pleased to hear it is going to be reconsidered at the next period of tax reform measure—the changes in the banking law that you are looking at, a review of forfeiture and confiscation laws, would all be measures that would focus the attention on the pocketbook of drug trafficking.

Mr. HUTTO. Thank you, Mr. Chairman, and Governor.

Mr. ZEFERETTI. I would like to welcome Congressman Shaw, who represents this district where we are enjoying all this Florida hospitality.

Mr. SHAW. I will be brief. I had a wonderful feeling coming into this building, and I see my police chief out there, Leo Callahan, and various people seated here today. It is really a question of coming home for me. I felt a little bit of concern this morning

when I was told I had to illegally park in the Commissioner's parking place and that, of course, was not the case some time ago.

We have been doing an awful lot of work in Washington, and we had tremendous support from Tallahassee, both from the Governor's office and the attorney general's office, in what we are trying to accomplish. I could not have had an experience of working with a finer delegation on both sides of the aisle. I have been privileged to work with the entire Florida delegation. Of course, my good friend Congressman Hutto and others are teaching me the ropes, and also teaching me the pitfalls, some of which I have learned all by myself. One thing we did accomplish in the House of Representatives—and I know there is some disagreement on the ways of obtaining those objectives in the Congress, and on this particular committee—is the issue of posse comitatus.

The Senate passed a provision, and I see, Governor, that you made reference to it on page 25 of your statement, you provided that this would allow information sharing between the Defense Department agencies and civilian law enforcement agencies seeking drug smugglers. That language applies, too, pretty much on all fours, with the Senate language on posse comitatus, which does provide information obtained in the normal course of military operations can be shared. That is an important distinction, because the House side would allow the information to be deliberately obtained for the use of law enforcement by military personnel.

It also goes on and says:

> The Secretary of Defense may make available equipment or research facilities to local law enforcement, and can provide the necessary personnel in order to adequately train law enforcement people in the use of military equipment.

Actually we are doing that now, so that really does not give us anything. The only thing the Senate bill adds to what we are doing, it removes a fuzzy area, and it allows the military to give us intelligence gathered in the normal military operation.

What the House bill does for the first time is get involved with the actual allowing of the military personnel outside of the United States, and I think that is a very important distinction, outside of the United States, to actually be involved in the actual arrest and seizures of drugs. This position has been supported almost to the maximum. But there was one exception by the Florida delegation: The amendment which I offered on the floor, which was spoken for by Dante Fascell, Bill McCollum, Charley Bennett, and it is now known as the Shaw amendment to the posse comitatus provision. This has now gone through a reconciliation process between the two Houses; and that is, whether or not the Senate will agree to pick up that language. Charley Bennett is leading the fight. You can't have a better negotiator, because he accepts and embraces the same opinion that I have—in the area of drugs there is no compromise.

The figures which you have exhibited this morning, those that are further proposals for cuts by the Coast Guard, vividly show the need to get the U.S. Navy involved. If you can't cut that, we are still sorely underfunded, and the additional task we continually place upon the Coast Guard certainly shows that we are asking the Coast Guard to do more and more with less and less. Right now they are only being able to capture about 15 percent of the drugs

that are coming in by sea—and of course, I am not sure it is even that much, but you can translate that and say it means 85 percent are getting through. That is absolutely unacceptable. It is necessary—we are putting so much money into the U.S. military—that we do get the Navy actively involved offshore in actually making some of the seizures.

There are subtleties between the two, but there is a very real difference. It can't be argued but that the House language is much stronger and will carry much more immediate results if it is properly implemented by the law enforcement officials and the Defense Department.

Would you care to comment on the two bills, and which one you would prefer, and your views?

Governor GRAHAM. Mr. Congressman, I would adopt your position and the position that Congressman Bennett has stated, and that is, that the problem is so severe in Florida, we need all the help that we can get. It has been our law enforcement community's feeling, that if we had to divide the issue that getting that sharing of intelligence information is a critical first step, because with it we could use our resources so much more effectively.

Take the example of the person who is the sheriff of Collier County with an immense amount of shoreline and interior space and a relatively small department trying to do all their regular functions and operate an interdiction effort against boats and airplanes. If that sheriff had available to him the information which the U.S. defense agencies have as to illicit boat and plane movement approaching southwest Florida, he could be much more effective.

Any other assistance that we could get would be welcomed.

Mr. SHAW. Very good. I am delighted to hear that. One other point: I would like to advise you and this committee of a bill that I have filed, and I might say for the first time, in my recollection, to my knowledge, this is an all-Florida bill. It has been endorsed by each member of the Florida delegation as an original cosponsor, and without hesitation by each one, and it is the major bail reform bill. It would require, in drug cases, Federal judges for the first time to inquire into the source of funds being used and being posted as bail money. Here in Florida, a half a million dollars bail bond is simply an invitation to freedom. It is not any guarantee that somebody will show up for trial. Believe it or not, for the time it also requires a judge to consider, in setting bail, not only the question of whether the individual will show up for trial, but also it requires him to consider what danger this individual might be to the community while he is awaiting trial.

I was surprised to find out it was already in the law, but in noncapital cases it is not in the law. It is going to be a giant step, and it is something that you and we in Washington will vigorously support.

I want to thank you for continuing to focus the spotlight on this most important problem. I think that the message will get through to Washington in so many areas. This committee was extremely anxious to come down and have hearings. This committee is well aware of the tremendous problem that we have here. I am cochairman of a task force, a criminal task force of this committee, that I

hope will come down, perhaps, to Dade County and look into the question of violent crime, which is not on the agenda today.

You have many fine people that I would like to include on the agenda, the sheriff of Broward County, and this is an area which we have to look into because of the absolute solid connection between violent crime and drugs, as we are so painfully aware of here in Florida.

It is good to see you.

Mr. ZEFERETTI. Mr. Rinaldo.

Mr. RINALDO. Thank you very much. I know the hour is late, and we want to move along. But I do want to state for the record that I completely agree with you, Governor, when you say the problem should be a national priority, when you speak about the connection between the drug problem and our national security. I agree when you mention that manpower and equipment, particularly Coast Guard resources, should be beefed up. But we went through a list of legislative initiatives, and as other members of the committee have amply demonstrated and described, most of them are in the hopper or on their way to fruition. I feel very confident that most of that legislation is going to be passed.

Now, if we had to forget about those legislative recommendations, could you tell us what you would classify as the No. 1, the highest priority, major new legislative recommendation, aside from money and Federal funds that you think the Congress of the United States should pass to effectively aid the State of Florida in its fight against the entry of illicit drugs and the drug trafficking that is going on?

Governor GRAHAM. Mr. Congressman, I have presented, in my testimony and in my comments, what I think the priorities are, and I am very heartened by the fact that there has been such a strong congressional interest in this issue. Putting aside the resources which I have indicated I feel is the No. 1 Federal initiative, the kind of things that are already before this committee and before the Congress, such as the herbicide spraying, the posse comitatus reform, and modifications in IRS information sharing, and some of the initiatives that go to the other economic dimensions, I think, are the priority.

Mr. RINALDO. Is there anything new that you think should be introduced by the members of the committee or by the members of a committee that has jurisdiction in that area, a brandnew piece of legislation not yet introduced that you feel would assist in this cause?

Governor GRAHAM. Mr. Congressman, you may be penetrating the outer parameters of my own knowledge in this. We have discussed today what in my judgment and in the judgment of law enforcement officials in this State, who brought their concern to my attention, would indicate to be the priority.

I must refer again to the issue of resources. The gap between laws and the statute books that say "thou shalt not bring illicit drugs into the United States," and the person who is standing at the Miami International Airport as the agent of the U.S. Customs Service who has to enforce that law is critical. The fact is that much of our deficiency has not been in the statutes which Congress

has passed but in the capacity of the responsible law enforcement agencies to see that those laws are enforced.

Mr. RINALDO. Thank you very much, Governor.

Mr. ZEFERETTI. Again, thank you, Governor.

One last point. In the area that you were talking about, the overcrowded jail conditions that we face throughout the country, there has been a piece of legislation introduced that would give Federal surplus property to local governments if in fact that Federal surplus property could be used through the criminal justice system for penal institutions.

Governor GRAHAM. Yes; in World War II training grounds we had a substantial amount of Federal surplus property, and the Federal Government has been very generous in sharing that for a variety of purposes, including law enforcement.

Mr. ZEFERETTI. We have already worked on it, and I think it is going to be a reality within a very short period of time. So if that helps you any in sort of identifying those areas, you might want to do that, because it is backed by the President and is something that will go forward.

Governor GRAHAM. One of the other recommendations from the Attorney General's Task Force on Violent Crime had to do with Federal assistance to detention facilities.

Mr. ZEFERETTI. Again, Governor, thank you. We really appreciate your contribution.

Governor GRAHAM. Thank you very much. We, again, appreciate your presence here and what that signifies as to your, and the national commitment, to an effective response to this serious drug problem.

Mr. ZEFERETTI. I would like to call up Attorney General Jim Smith, who is a friend with whom we have had the good fortune of discussing some of these issues with in the past. And we welcome you, Jim, and thank you for taking the time to work with us in this particular way and, also, to give what I consider to be some pretty strong testimony to the points we are trying to make.

You may proceed. We have your full statement. It will be considered as part of the record.

TESTIMONY OF JIM SMITH, ATTORNEY GENERAL, STATE OF FLORIDA

Mr. SMITH. Thank you, Mr. Chairman. I appreciate the opportunity to be here. We are delighted to have you in Florida. The committee's attention to our problem and its willingness to come here to the mountain is appreciated by all the citizens of our State.

When it comes to drug smuggling, let me assure you that Florida is the mountain. I don't know how much trafficking goes on in the District of Columbia, but I would be surprised if there isn't $50 million worth of illegal drugs within a 20-mile radius of this room—right now—as I speak. Smuggling is a fact of life here, like the palm trees and beaches. The flow of contraband entering this State is as endless as the waves that wash up on those beaches—and about as easy to stop.

During the past 2 years I have testified on this problem a number of times, to congressional committees and to the Attorney General's Task Force on Violent Crime. The thrust of my testimo-

ny, and of that given by all other officials of this State, has been to urge the Federal Government to take action on a series of proposals that would have measurable effect in the near term. I refer to spray eradication programs on marihuana and poppy crops in source countries, use of military intelligence in tracking and interdicting drug shipments, tougher Federal laws and bail procedures, and use of Internal Revenue Service records in criminal prosecutions.

I want to emphasize these are not complex policy and economic initiatives, although these are also needed over the long haul to deal with the tolerance of smuggling in some source countries for its economic return. The proposals we have made, and which are now in the final report of the Attorney General's Task Force, are easily described as line law enforcement measures. They are not experimental. They are not expensive. State and Federal authorities have recommended herbicide spraying as the single most effective and cost-efficient way to curb drug smuggling.

In a military sense, spraying is analogous to destroying the enemy's ammunition. It makes a lot more sense to do it at the factory than to wait until it reaches the frontline troops. Spraying operations in Mexico eliminated 70 percent of the opium crop and reduced marihuana imports to the United States by 80 percent. This demonstrated success make our failure to act decisively all the more frustrating. But the smugglers are loving it.

Smugglers are happy to discount their staggering profits by 10 percent to allow for what is being confiscated in this country. It goes without saying that the trade would be a lot less attractive with 80 percent of the crops destroyed and law enforcement concentrating on intercepting the remaining 20 percent. Florida has been trying for more than 2 years now to get the Federal Government's active participation in putting these measures to work. I have to be frank and say that the Government has not, to this day, demonstrated its commitment to enforcing the controlled substance laws of the United States. Nor has it demonstrated any sensitivity to the plight of Florida, which is by any definition a crime disaster area whose social and economic structure is endangered by the presence of the smuggling syndicates.

This economic threat is the subject of your hearing today, Mr. Chairman, and we applaud your interest and hope our testimony will result in strong legislation. At the same time, I am compelled to take the opportunity to suggest that you join us in urging swift action on the other legislation that is pending. Time is critical. Next year there will be elections in Colombia in which we could lose the officials, including President Turbay, who support spraying and other enforcement measures against those who would favor legalization. That will be a major issue in that presidential campaign.

I hate to think of how many marihuana and poppy harvests have passed while we engage in legislative deliberation. Our priorities are justifiably being questioned. I assure you, if the decisions were Florida's to make, they would have been made long ago. This committee, by resolution, could be invaluable in influencing Congress to turn out the tools we need. Florida has done a lot by itself, putting money and agents into the field and enacting some of the

toughest trafficking statutes in the country. But Florida can't do it alone, Mr. Chairman.

Governor Graham and I have been advocating spraying since our visit to Colombia in 1979, when we saw fields of marihuana that were literally as large as some of our States. At that time, the DEA estimate of the value of illegal drug sales in the United States was $60 billion to $65 billion a year. I understand this is expected to reach $100 billion in 1982, which will rank smuggling among the Nation's top five industries. Numbers like that make a clearer statement on America's drug enforcement effort that any words that I could use.

I was pleased to hear President Reagan speak favorably of use of herbicides and the military in drug enforcement in his crime speech 2 weeks ago. We would be happy to see these proposals emerge from the Congress as a bipartisan plan for action against the most lucrative criminal enterprise in history.

Cash is the bloodstream of the trafficking trade and, in the long run, the only certain path to those at the top of the syndicate structures. Except for the flow of money, the kingpins of smuggling remain isolated for their own protection. But they do come out on payday. The Niagara of money associated with smuggling has been documented by the staggering cash surpluses of the Federal Reserve Banks in Florida. Operation Greenback and Operation Bancoshares were highly successful Federal prosecutions in which the footprints of smugglers were traced through irregular bank and currency transactions. Florida Comptroller Gerald Lewis will testify later today on the very substantial problems faced by his office, which regulates State banks only, in monitoring currency transactions and other banking activities that could be drug related. The major experience of my office in currency transactions has been through RICO prosecutions, when we seek civil forfeiture of assets used in racketeering violations such as smuggling.

We have succeeded, in a number of cases, in obtaining sizable forfeitures, mainly land and cash. But we have good reason to believe that a great deal more is escaping to offshore banks. One of the favorite techniques is simply to charter a plane and deliver a suitcase full of cash to a bank in the Bahamas, the Cayman Island or the Dutch Antilles. Once out of the country, the money is placed in a secrecy-shielded corporation formed for the purpose of laundering it. Then it is returned to the United States and invested in real estate or a legitimate business. At present, secret ownership of offshore corporations is a nearly insurmountable problem. The governments of these countries will not give us the information we need to tie the corporate owners to illegal acts in the United States and, sad to say, neither will the Government of the United States, Mr. Chairman.

If an offshore corporation buys real estate in this country it is supposed to identify officers, directors, and shareholders in a report to the Department of Commerce. But that information is confidential by Federal law and unavailable to State law enforcement agencies. So we have to rely on the testimony of coconspirators in prosecutions to prove that the defendant owns the offshore corporation. The offshore corporation is a two-way channel for hiding assets. When we spring a RICO forfeiture case, unless we act with

lightning speed, a defendant can liquidate assets and funnel the proceeds offshore through the same conduit that brought the money in. The defendant has the advantage, obviously, of knowing where his assets are. In 1981, our legislature addressed this problem with a RICO lien law that applies to secret land trusts, which are legal in Florida, as they are in most States of this country.

This law puts a lien on a defendant's beneficial interest in secret trusts. Any trustee who sells the property after the filing of the lien becomes personally liable to the State if the property is deemed forfeitable. The lien will also apply to all other real estate owned by the person convicted, whether in a secret trust or not. It requires offshore corporations that purchase real property in Florida to list the names of directors and officers with the State and designate a resident agent. The law also says that if a forfeitable asset gets away, the court is to enter a personal money judgment against the defendant in an amount equal to the value of the asset. It is then up to us to collect the best way we know how. This is one example of the usefulness Internal Revenue Service tax return information would be. IRS tax information will be invaluable in such cases. We are not asking for unlimited access to these records. But we think when we have a case that is good enough to cause us to file against a smuggler we should be able to go straight to the IRS and not have to work through the Justice Department.

It costs us right now about $10,000 per defendant to try to establish what assets that individual might have when those tax records would answer that question for us very quickly. In 1977, the United States and Switzerland signed a treaty under which evidence of illegal funds deposited in Swiss banks can be made available to U.S. authorities. If we could get similar treaties with countries like Panama, the Caymans, and the Bahamas, which are known banking havens, the work of Federal and State prosecutors in tracing the flow of drug money would be greatly facilitated. Even without formal treaties, the Government of the United States has the means at its disposal to use economic diplomacy to penetrate the curtain of secrecy that surrounds such transactions.

Estimates of the money flowing through these banks for tax evasion, fraud, laundering, and organized crime operations runs into the billions, I am told. The primary motivation in any criminal enterprise is profit. Money rewards the participants for the risks they take, buys whatever protection is available and pays the operating expenses. We might agree that the only way to shut such operations down is to take the profit out of them. That is what we are doing in Florida with every resource we can muster, working directly with the State Department of Law Enforcement on joint civil and criminal prosecutions. That is what we are trying to do here in Florida with joint civil and criminal prosecutions under our RICO statutes.

We are small peanuts compared to what might be mounted with a full-scale commitment from the Federal Government combined with bail reform, tougher drug sentencing laws and removal of investigative barriers. Unless this kind of effort is mounted, we will continue to have drugs on our streets and in our schools, and the financial power of the syndicates and the organized crime activities they support will go on growing. Then we may find ourselves in the

dilemma expressed by Donald R. Cressey in his 1969 book. Theft of a Nation: "Organized crime will put a man in the White House some day, and he won't know it until they hand him the bill."

Thank you, Mr. Chairman.

Mr. ZEFERETTI. Thank you, Mr. Smith. Let me comment on the eradication problem and the efforts that we have made. I know we, as a committee, and I, as an individual, have been concerned about what efforts are being made by the State Department, and with the various treaties of convenience that they put together, how we go forward and make our eradication possible.

The people in Colombia, tell you about the kind of marihuana that they grow, and we find out about the good marihuana that we are growing out in California.

Mr. SMITH. And Florida.

Mr. ZEFERETTI. There are efforts being made, and I concur with you that it is essential that some movement be made before the coming election takes place down in Colombia. I can also assure you that the State Department has for the first time I think, put somebody in charge who is going to have the ability to combat this in a most positive way. He is a gentleman that I know, and he comes out of my State, who I know will go after this vigorously.

I, myself, just came back a few weeks ago from Peru where we are doing the same for eradication of the coca leaf. We are putting forth more effort, not only in the area of development and reprocessing but also in the area of law enforcement for that eradication purpose. There is an ongoing effort, and I can assure you the interest is there by the committee and by the Government and the administration, and I am looking forward to the new man in charge doing some good things resulting from his efforts.

One other phase I would like to touch on concerns the various laws we have and the ambiguous way that they could be interpreted. Could you possibly give us a specific statutory change that you would like to see which would give you some teeth in the law to effectively prosecute drug traffickers particularly in the area of availability of information and cooperation between agencies?

Mr. SMITH. I think the language that was contained, that was eliminated from the tax-cutting legislation, would have served our purpose. If we can get access to that information from IRS returns, it will save us an enormous amount of time and money in terms of those investigations. It also will very quickly—I was talking to the lawyer that is head of my RICO unit yesterday; it would let us very quickly eliminate a person as a target if we could look at that information. We have to spend $10,000 to $15,000 per defendant to investigate the resources on our own. If we could get the IRS tax return information, it would save us a lot of time and some of our citizens some amount of hassle.

Mr. ZEFERETTI. Do you think we could get some additional help from the industries; for instance, the banking industry? Part of the problem I find is sometimes they feel we come in as adversaries, and they curl up and are afraid to cooperate. They are fearful of the impact it might have on anything they might do or say. Is there anything we could do to make them feel that we are an arm to render them assistance, and not one to chop their head off. Whether it be with the industry itself that has a problem or

whether it be with those agencies that have the jurisdiction, to form a coalition of effort or a coalition of cooperation that could be more meaningful. Would you comment on that, please?

Mr. SMITH. I am sure Mr. Lewis, this afternoon, our comptroller, can go into much greater detail. I am sure he will share with you the frustration he has had in trying to get cooperation from Federal agencies as it relates to banking activities, as it relates to the banking industry.

There are so many exemptions in the law that bankers for the most part are really not violating the law. But in terms of having to report cash deposits, many businesses like restaurants, coin-operated laundries, many cash flow-type businesses are exempted from that reporting procedure. If we could close those exemptions, we put a greater burden on the banking industry to make that kind of reporting. The crooks are smart. They know what the exemptions are, and they lean to those kinds of business activities. So that information is not required to be reported.

Mr. ZEFERETTI. Thank you. Mr. Gilman.

Mr. SMITH. If I may, Mr. Chairman, I would like to, on the paraquat issue and the posse comitatus information, the information in our office, that is monitored, both of these legislative initiatives, very closely. I am very concerned that both of these may fall through the crack. The paraquat issue is tied to the Foreign Assistance Act, which may become, or is the subject of, a continuing resolution. Then there is, I think, some jurisdictional games being played between committees about what kind of amendments may be allowed or not.

I hope that the posse comitatus amendment, you know, the debate between the Senate and House, won't go on for so long that that falls through the crack. Paraquat, No. 1, and posse comitatus, No. 2, are both in a way the most important things in terms of national policy that we must have if we are going to send out the signals to Colombia and Jamaica and other countries, that we are really serious about the problem. If we lose a friendly president in Colombia, who will allow spraying operations, I fear for the United States, because obviously with the resources that we have today and what we can envision in the future, we are going to get 10, 15 percent, but it is going to continue to be worth it. We have got to go to the source country, spend our dollars there, and eliminate 78 percent of it there. I really think to whatever extent this committee or to whatever extent our State can try to get a sense of your urgency from the Congress on those two pending bills, we are ready to do anything. But my information is both of them are in serious trouble.

Mr. ZEFERETTI. I hope they are not really in serious trouble because they have a priority. I appreciate our point on both of them. You are going to find the specific language that they are going to adopt will be accomplished through a conference. We have done it in the House and the Senate pretty much on posse comitatus. They have laid the groundwork; it is being worked out.

On the paraquat problem, the repeal of the Percy amendment, that goes deeper. That could very well develop into a fight. But again it is incumbent upon us to make that case on the floor.

Members of this committee and your delegation will stand up and speak very, very loudly when that time comes.

Mr. Gilman.

Mr. GILMAN. Thank you for your cogent remarks. You emphasize the spraying problems; and, of course, the major spraying problem has to do with marihuana. We are not having any problem with spraying poppy plants elsewhere, and there is no problem with cocaine, because we can't spray the coca plants. What you are talking about is marihuana, and yet there is no restriction doing any spraying interstate or intrastate. It is when we get overseas that we have a problem.

Do you have a problem with spraying here in the State of Florida?

Mr. SMITH. We have recently flown the State of Florida, almost every county, and found a lot more marihuana growing in our State than we dreamed could be there. So far, we have been able to eradicate that on the ground, and really have not found many plots large enough for spraying.

Our State, I have discussed this with the Governor and other law enforcement people, we would not have any hesitancy to do that in the appropriate place. I think, frankly, once we get the Percy amendment repealed, I think it will be important for some States in the United States to do some spraying. If we get a plot big enough here to do it, we would certainly do that. It is important for some States to do that, so when our State Department people go to Colombia and Jamaica, they are able to say, yes, we have done it domestically.

Paraquat is a chemical we talked about using, and there have been a lot of scare-type things said about it that are not true. Last year, in Florida farmers used 62,000 pounds of paraquat on vegetable crops and sugarcane crops, so it is a chemical that is widely used in agriculture. There were 62,000 pounds used in Florida last year, and we will not hesitate, in the appropriate circumstances, to spray a marihuana field in the State of Florida. We have flown the State looking for some places that might be that big, and we found a lot more of the stuff growing in 5- and 10-acre patches than we imagined, and so far we have been able to take that stuff out manually. It was not conducive for spraying.

Mr. SHAW. Within 4 miles of this city hall where we are sitting today, I personally have used paraquat in my own nursery. I have a tree nursery business, and we have used it extensively, it is a very safe and quick acting herbicide.

Mr. GILMAN. Maybe you could catch a couple of Medflies, also.

Mr. SMITH. I might say, generally, that I have been briefed by the Drug Enforcement Administration, and they have identified in other States, obviously for intelligence reasons—I don't say what and where and how much—where it may be necessary to do some spraying. But I think they are going to look to the States to do that.

Mr. GILMAN. You have no reluctance?

Mr. SMITH. No, sir.

Mr. GILMAN. Tell me what the backlog is for narcotics prosecutions, both State and Federal?

Mr. SMITH. We have a speedy trial rule for the major cases. I don't think we have a significant backlog. There were several constitutional challenges to our minimum mandatory statute. I personally argued the first case before the Florida Supreme Court, and I am happy to say now in about four different cases our supreme court has sustained the constitutionality of that law.

We don't find backlogs to be a major problem. In Florida, our big problem is the misdemeanor area and minor crime areas, because we have focused attention on the more significant crimes.

Mr. GILMAN. Not in the drug trafficking area?

Mr. SMITH. No, sir; and we have found, specifically since our statute's constitutionality has been upheld, a lot of these people going to North Carolina, and Georgia, and Alabama for their activities, to escape prosecution under the State statute. Where we have made major arrests we can hardly keep them from singing; they come under the provision to get their jail sentence reduced. So the law has worked very effectively for us so far.

Mr. GILMAN. Mr. Smith, you talked about the racketeering and the RICO Act, and how you are restricted in its use somewhat with regard to the Department of Commerce information. I am very much interested in what you are saying. Have you made requests from the Department of Commerce, and they said it is statutorily prohibited from providing that?

Mr. SMITH. Yes, sir; some of my people have been to Washington and talked to Commerce people about that, and that information by Federal law is confidential; and they, by law, are prohibited from giving it to us.

Mr. GILMAN. I certainly think our committee should be looking into it. We will explore some ways of trying to get that made available to law enforcement agencies.

Have you pursued any of the RICO liens and been able to seize property?

Mr. SMITH. Yes, sir. I was able to convince the legislature, too. When I was elected attorney general, the RICO law had been on the books 5 or 6 years. There was not a RICO prosecution unit in the Attorney General's Office. The legislature, in the first year that I served, gave me two lawyers, which is really a pittance. They, in 1 year, two lawyers working, were able to in cash for land value get in excess if $1 million. Last year the legislature authorized me about four more attorneys, so we really are—it is really starting to emerge. Right now, we have in suits filed, another couple millions of dollars we can seize and many, many millions of dollars under investigation. I have six lawyers, and you know how difficult these cases are. We have shown the legislature, though, that we think each lawyer each year can produce in excess of $1 million, so it is very cost-effective.

When you measure that, though, against a drug business that we estimate to be about $7 million a year, you know, we are screwing around with it.

Mr. GILMAN. Scratching the surface. It is an effective tool?

Mr. SMITH. It is a deterrent, and I am hopeful the legislature will see fit to continue it. As long as I am able to produce $1 million to the State with one lawyer, that is a very cost-effective program, when we pay him $25,000 a year.

Mr. GILMAN. How fast could we help you with that tool?

Mr. SMITH. The best way the Federal Government can help us is by making it possible to get information from IRS returns and information from the Department of Commerce about offshore corporations and that kind of thing, and I would hope that in some way, and I know that it is very difficult, that through the State Department we could initiate some treaty initiatives with the Bahamas, and the Cayman Islands, and Panama, and other South American countries to make it easier to get information for prosecution.

Offshore, well, it is almost impossible for us to get information to help us with prosecution.

Mr. GILMAN. Thank you, Mr. Smith.

Mr. ZEFERETTI. Mr. Hutto.

Mr. HUTTO. Thank you for your statement and your vigorous efforts in attacking the drug problem we have in the State of Florida. Frequently we hear from the citizens and public officials who have been involved in the drug problem that there is corruption among elected officials and law enforcement officials. Is that a big problem?

Mr. SMITH. Well, we have had enough indictments certainly to tell us it is a problem. Recently I think about nine police officers in Dade County were indicted. We have seen in Taylor and Dixie Counties in north Florida some trials concluded involving county commissioners, law enforcement officers. Almost weekly, as I read the papers from around the State, I read about some public official who has been indicted on some drug-related payoff kind of scheme. The level of corruption that we don't know about is really what I am concerned about.

I think it is deep-seated and a kind of cancer in our society. When we find out about it, it may be terminal. That is why I have been so outspoken about the Percy amendment and those kinds of things, because we, at the national level, have not dealt with the problem. We have not had national policies that will help us win the war, and it is killing Florida.

Mr. HUTTO. I certainly hope that we can help you in this area. The two bills that you mentioned will go a long way in helping to nip the problem in the bud. It is such a big business and involves so many billions of dollars, there must be a lot of big dealers in the drug business to keep it going.

Do you know who the big dealers are?

Mr. SMITH. I wish we were so fortunate, really, to have the traditional organized Mafia-type families running the drug business. We got about 23 or 27 families identified as operating in Florida. We might be able to keep up with that kind of activity, but our State law enforcement agencies have identified something like 1,000 major drug dealers in the Dade-Broward County areas, and that quickly gives you some idea of the magnitude of the problem.

Mr. HUTTO. You don't have the tools to deal with them, although you know who they are. Is that because you can't get IRS records and other similar information?

Mr. SMITH. That would help us in our prosecutions, would help State attorneys and help our office and RICO. Again, the point that needs to be made, if we don't get to source countries and spend our

money eliminating it there where it is grown or produced, given the money involved in the business, given the shoreline that we have in the Southeastern United States, and the ability to land on, you know, country roads with small aircraft, I don't believe traditional law enforcement can ever effectively deal with the problem, because we are looking at people. One or two trips a year will make you $200,000, $300,000, $400,000, $500,000. Enough people are involved in it that unless we get to the point we have a military standing shoulder to shoulder around our coastline, I don't think we will get it done with traditional law enforcement methods. We have to get to the source countries to do it.

Mr. HUTTO. You mentioned the possibility of President Turbay possibly being replaced. We don't know who could be in or what their position would be on this. Do you have any feel at all about the Colombian people with relation to this problem? It obviously is big business there for a lot of people and means something to the economy. What is the feeling of the people?

Mr. SMITH. I was on that trip with Governor Graham 2 years ago when we met with President Turbay. The legalization issue is a big issue in that country and will be a major issue in the campaign for President. I know the most difficult time that the Governor and I had was when we met with the president of the Colombian senate, and he just barraged us with, your country is not serious about the problem; why don't you come to Colombia and spray our fields like you did in Mexico; and you are talking out of both sides of your mouth. He was very blunt, very critical of the lack of national policy that exists. He said, "You all are just kidding about it." Why don't we go ahead and legalize it in this country. He was very much an advocate of that, so we have to be extremely concerned about the attitude down there on the legalization issue.

Obviously the illegal activities in that country causes them enormous problems and fuels inflation as it does here in the United States, and certainly in Florida.

Mr. HUTTO. You spoke of the need of having more treaties, and I certainly would agree with you that we need that. I was pleased to hear the chairman say the State Department apparently has someone in charge that will be working on this. Has the State Department been involved in this very much? Have they been working cooperatively in this effort?

Mr. SMITH. The signals that I have seen from the Reagan administration indicate that they will be serious about the problem. The signals that we had from the Carter administration, frankly, were very much of the other way. I don't think they cared about it. I just hope that we will have the guts as a country to tell some of these other countries, "Either you cooperate with us and try to solve this problem or we will cut off foreign aid" or tell the Bahamian Government they would be in serious trouble if we said "We are not going to let our aircraft land on your islands until you start helping us." If we got the guts to do something like that, we will get their attention.

Obviously, I probably would never make it in the State Department. The niceties that they deal with, I can't operate that way. But I hope we can overcome some of that and use the enormous pressure that this country has to really help us win this battle.

Mr. HUTTO. Really, on this matter, rather than the need of Federal legislation, it is a matter that can be handled administratively, and if the State Department and national policies can become more effective well, maybe we can have something.

One final question. Would you comment about the minimum sentencing? It seems to me the State of Florida has done a good job of promoting this as a vehicle that would be a deterrent against crime.

Mr. SMITH. Obviously we cannot go to a system where we would have minimum mandatory sentencing across the board. I think the chairman's comments about that are well taken. For selected criminal activities, 3 years-to-life sentence for armed robbery. The first year that law was put on the books, we had a 28-percent decline in armed robberies in Florida. The thing we have not done in Florida that has to be done with minimum mandatory sentences, the first year that law was on the books, the legislature appropriated and a great deal of money was spent advertising that law, television spots, heavy billboard campaign, so that the citizens were very much aware of the consequences. If they committed a robbery and used a weapon, 3 years to life, that was it.

That was only 1 year. Since then we have seen armed robberies escalate very much again, so I think where we have those kinds of sentences, if we will accompany that with an advertising campaign, it will become effective. I have been struggling to keep the help stop crime program alive in Florida, and it has been a battle, but we recently converted the Governor and he very much now believes in it, and some people in the legislature, and I hope we will see some funding in those areas.

Mr. HUTTO. Are you saying that the advertising and promotion was not funded after the first part?

Mr. SMITH. Yes. So the awareness level dropped off. I think if we can keep the awareness level high, people will not be willing to make that kind of a change.

Mr. HUTTO. Has the media been cooperative?

Mr. SMITH. No, sir, I think a lot of the media gave us some very good public service time. Once in a while, I catch a spot now at 9 o'clock on Sunday morning.

Mr. HUTTO. That is the way the normal public service announcements are made. It is a shame you have to pay to get it in those times.

Mr. SMITH. The reality is we are going to have to pay for it.

Mr. HUTTO. Thank you.

Mr. ZEFERETTI. Mr. Shaw.

Mr. SHAW. First of all, I would like to say that my office has had a tremendous amount of help and cooperation from the Attorney General's office and the attorney general personally—he has one of the finest staffs of lawyers that anybody has ever assembled in that particular position. As far as a State-elected official anywhere in this country, you have probably done more to work in the area of combating the city's growth of our drug problem. You have done so without television lights or batteries of reporters, in a very quiet and efficient manner, and for that I have nothing but the highest praise for you, and, of course, I value our friendship very, very much, which has crossed party lines for years.

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Something you spoke of, you touched upon it very lightly but maybe the time has come that we should hit it directly. What is happening offshore in this country? What is happening in the other countries, the Bahamas, and all the island nations in the Caribbean and South America?

The problem is, the corruption is either rampant or it is a policy of government to look the other way and in far too many instances. I don't mean to make an indictment of all officials, but it is absolutely impossible that the amount of activity that is going on in the banking community, in actually physically moving drugs in and out of these countries, is being done without some knowledge and tacit approval of the government.

I would add to your remarks about the niceties of the State Department. The time has come for us to put an end to it, and find out who our friends are in the world, and view the assaults that are being made on this country daily from these countries as genuine assaults, assaults we are not going to take any longer. We should put an end to it, whichever way we have to, and niceties be damned.

Mr. SMITH. I could not agree with you more. With the economic influence that we have, certainly, in this hemisphere, it is absurd that our country has allowed the kind of activities in parts of the world to go on the way they have.

Commissioner York is going to testify. He could give you—he is sort of like me; pretty blunt about these things—where he has had officials in the Bahamas just kind of laugh. They don't give a damn.

Mr. SHAW. We are holding the cue cards when they laugh, and we have to reverse that procedure and put some new messages on those cards. I look forward to that, I am glad you brought that up. It is within the sphere of these hearings, and it is something we may want to follow up and do more work on in the future.

I would like to ask you a question with regard to the Posse Comitatus provisions, and ask you which version you support, the Senate or the House version?

Mr. SMITH. It really struck me this morning, I was really not aware that the budget cuts for Federal law enforcement agencies are as deep as apparently they may be. If that is going to stand up, it is even more important to try to get on the national security side of the ledger, and in that sense, appropriately solve to some extent, the military outside the jurisdiction of the United States, on the high seas, to try to help us in this battle. In that sense I would certainly support the position that you and Congressman Bennett have taken.

I also have to say, though, that at some point, some compromise must be struck between the Senate and the House so that we get something. I hope we don't continue to debate the issue until it falls through the crack.

Mr. SHAW. If we were to adopt the Senate language, it would be a full retreat, and that is what we have to be extremely careful to avoid. The compromise, if there is such a thing as compromise in the area of drug law enforcement, has already been struck; and that is, when we took the armed services' position and actually compromised that on the floor of the House by saying the military

will only be involved in making arrests and seizures outside of the land area of the United States. I think that was a good, positive move and one that took a lot of the objections that have been expressed by various organizations out of consideration, which makes the House version, in my opinion, already a substantial compromise.

Mr. SMITH. It may not be appropriate to say this publicly, but we need some attitude adjustment in the Department of State, how they do business in protecting the interest of our country, and also we need some significant attitude adjustments in the Defense Department and their willingness to really get involved in this issue and be concerned about this issue to our country, and you know as well as I how much they really resist the Congress trying to move them in any involvement at all.

Mr. SHAW. I think we need some lessons given from the very top.

Mr. ZEFERETTI. Would the gentleman yield?

Back to that one issue, because I think the definition in the language is very, very important. Are you advocating the use of military personnel in making arrests? Doesn't a prosecutor find that a little cumbersome in effecting a kind of arrest that will be proper without these people having the proper training? I would find that very hard to accept. I would like to use the military intelligence and equipment for surveillance to enhance our capabilities to make seizures and arrests that would still stand up in a Federal or a local court. But I would be very, very hesitant to go for the kind of language that would give some second lieutenant the opportunity to go aboard a ship and grab four or five people, even in aid of a local government, without the proper training and skills so that the case is not jeopardized and prosecution is successful.

Mr. HUTTO. Will the chairman yield?

As I understand it—and maybe Mr. Shaw can comment on this too. It is my understanding the way that we had the bill in the Defense authorization bill, any effort had to be under the direction of civilian authority so it would not be a willy-nilly thing where somebody in a boat could go out looking for somebody to arrest?

Mr. ZEFERETTI. You still have the problem of utilizing the military offshore or in an area where you don't have local government. You still have the responsibility of them intercepting or going aboard or into an area where just the military would be without the assistance of local government.

As a prosecutor, would you feel that that could be a hindrance to the lawful prosecution of an individual committing a crime?

Mr. SMITH. Obviously, if the military personnel were not, did not make those kinds of arrests or handle themselves correctly, then you might lose the opportunity to prosecute, and that certainly wouldn't help us at all, so I would think any involvement would necessarily require that kind of training.

I think probably all of us, if we could see some significant resources going to the Coast Guard, for example, then this won't be the necessary——

Mr. ZEFERETTI. We don't disagree at all with that.

Mr. SMITH. The frustration is to see a $200 million cut from the Coast Guard, $40 million cut from DEA, and we see all these

enormous amounts of money going for national security. We got to ride somewhere if we are going to solve this problem.

Mr. ZEFERETTI. I worry about going to the Defense Department and getting the kind of assistance that is meaningful. I can make an argument on using intelligence and equipment. I cannot make an argument on using manpower, because if we have to go into that, we will have training for every individual they have under their jurisdiction, and a monetary expense within the system that would be prohibitive.

I am looking for the easiest way. From talking with Navy, Coast Guard, and those agencies that could lend assistance, we can utilize them in a most productive way.

Mr. SHAW. If I might reclaim my time on that. I have looked through the Federal statutes, and I have found nowhere is there a requirement that we train our soldiers before we send them to war. You have a question of commonsense. If you are going to have people fulfill this responsibility, we do assume they are going to have a certain amount of basic training. Also, I think that the House side of Posse Comitatus is very clear in that it does provide that it is to be under the direction of law enforcement personnel. I think also that the Attorney General will also agree that sometimes a bad arrest is better than no arrest, if you take in several tons of marihuana in the process, because that is taking drugs off the street—and even when you do not have a perfect arrest that goes forward to a perfect prosecution, but certainly we have accomplished a lot by taking a lot of these drugs off of the street. You have accomplished something even under a situation which is not always the way that you would like for it to come out. I, too, have a background in law enforcement, both as a city prosecutor, as a city judge, and also I think in my years as mayor in this particular house, I certainly have had dealings with law enforcement which would also allow me to have seen not only that but the results of the tremendous amount of quantities of drugs that are getting into our communities. When you have 1 out of 10 high school seniors using marihuana on a regular basis, you say the whole situation is out of control, and I do think we need a dramatic shift, drastic action, and a full commitment made by the Federal Government to stop this situation.

Mr. SMITH. I would like to underscore again, I can certainly live with Congressman Shaw's position or your position, Mr. Chairman. It is vital that we come out very soon with something. I hope that, again, we don't debate this issue until it really falls through the cracks. I agree the information would help us tremendously, and I also agree with Clay that if we are going to cut civilian law enforcement, Federal law enforcement to that extent, it is appropriate to try to get some help, and maybe somebody ought to take a hard look at taking money out of the Defense budget.

Mr. SHAW. I would be a proponent of that. The Coast Guard is so far undermanned at this point it will take years to get them up to speed.

Mr. ZEFERETTI. Our goals are all the same. The route we take is maybe a little bit different, but the overall issue of getting that into the law is the most important part; and if we can accomplish

that much, we will have gone a long way toward solving some of our budgetary problems.

Mr. Rinaldo.

Mr. RINALDO. Thank you, Mr. Chairman. I want to thank you, Attorney General, for your testimony. One point should be cleared up so we don't panic everyone on this committee against budget cuts for law enforcement, particularly when it affects the fight against drugs that has to be waged. I didn't have the opportunity to examine the chart in detail. Even on that chart, in every area the expenditures increase over the budget recommendations of the former President, and maybe not enough to satisfy me or you or members of this committee, and the final column represented an additional 12-percent cut as suggested in the latest speech by the President, which I am not so sure is going to pass or is going to be acted on very receptively by the House or the Senate. So the situation is bad, but certainly not as bad as it was portrayed.

Mr. SMITH. We are facing in Florida, the Governor and the legislature and all of us, having to make those kinds of cuts, and we have taken the position, public safety, law enforcement in our State is an area where we just don't compromise. We made a commitment over the next 2 years by $200 million—over the next 2 years—and I would respectfully suggest the same thing to the Congress about Federal law enforcement. There are some basic things in society that can't stand a 5-percent cut across the board, whatever. All of us in public life are faced with having to make a hard decision about what kinds of programs are we going to eliminate so that we can actually take care of the safety of our citizens, which we are all paying for years and years of neglect. We got to get to the point if we need a 40-percent increase, they got it; good. If that means we got to totally eliminate some other programs, let's do it.

Mr. RINALDO. I agree with you. If we eliminate the tax loopholes in the law, we will have enough money to fund the Coast Guard and other agencies to the extent we would like to see. We discussed the attitude of the State Department. To the best of your knowledge, has any effort been made in this area to get the treaties underway that you think are so necessary in order to obtain evidence of illegal funds deposited in banks in Colombia, et cetera?

Mr. SMITH. No, sir. The only one that has been done successfully was with the Swiss Government, and I think probably primarily because the Swiss Government was interested in trying to eliminate those kinds of activities from taking place in their country. They had a strong desire to clean up banking in their country. So the task ahead of us, you know, South America and Central America is going to be very difficult, because the attitude of the governments of some of those countries is not too cooperative.

Mr. RINALDO. Has the State Attorneys General Association or any other group pushed or fostered this proposal somewhere?

Mr. SMITH. No, sir, I don't think so.

Mr. RINALDO. There was quite a discussion of aerial eradication. What percent of the illegal drugs that have come into Florida would be stopped by comprehensive programs in some of the foreign countries that were mentioned, in your view?

Mr. SMITH. Really, I think that the best way to answer that is to look at the Mexican experience, and the information that I have is with the spraying operations that we had in Mexico: marihuana and poppies, we eliminated about 89 percent of it. Colombia and Jamaica are the major source countries for marihuana, and I think going there with spraying operations, we could eliminate 60 to 75 percent of the supply.

Mr. RINALDO. Would you label this as the No. 1 priority of the Federal Government?

Mr. SMITH. I think, repeal of the Percy amendment is the most significant thing we could do, because it is the most effective expenditure of the dollar we could make.

Mr. RINALDO. Thank you very much. I have no further questions.

Mr. ZEFERETTI. Thank you very much. We really appreciate your taking the time to enlighten us as to your problems in Florida.

I would like to call up Jeffrey Harris, Deputy Associate Attorney General; Hon. Robert E. Powis, Deputy Assistant Secretary of the Treasury for Enforcement; and Hon. Philip Coates, Assistant Commissioner for Compliance, Internal Revenue Service.

Gentlemen, welcome. I have your statements, which will be incorporated into the record, and you can proceed in any manner that you are comfortable.

Mr. Harris, would you like to start?

TESTIMONY OF HON. JEFFREY HARRIS, DEPUTY ASSOCIATE ATTORNEY GENERAL OF THE UNITED STATES

Mr. HARRIS. Thank you, Mr. Chairman. As you know, the Attorney General and the President are extremely concerned with the narcotics problem and, specifically, the Attorney General has made great efforts in the area of violent crime, with narcotics being perhaps the single greatest criminal enterprise which spawns violent crime.

Additionally, it is the primary area where Federal law enforcement has a mission. Most street crime is primarily the responsibility of State and local governments. Not so in narcotics. In the area of narcotics it is becoming increasingly apparent that the higher-ups in narcotics organizations do not necessarily have their hands in the white powder, but they do necessarily have their hands on the money. The investigative strategy that is becoming more and more necessary in narcotics operations is the ability to investigate the paper trail, the money trail, and identify the managers and supervisors of narcotics organizations through financial investigation as opposed merely to tracing the white powder.

In this regard, the Attorney General is looking at the best way to involve the Federal Bureau of Investigation in this effort. As you know, they have great financial expertise, and also have a substantial expertise in the investigation of organized crime activities. The Attorney General would like to bring those particular areas of expertise to bear in the war on drugs, and this is one of the principal reasons he has directed the study, which is now underway, as to how we can best, as a Federal Government, bring all our investigative resources to bear in this new strategy, an increasingly apparent correct strategy, of tracing financial assets in order to identify supervisors in drug transactions.

Most drug dealers do one of three things. They either use the banking facilities in order to accomplish their financial transfers, they may or may not be involved in filing tax returns. If they do neither of the above two, they do have their hands on the hard currency and do involve themselves in financial transactions. There are laws in each of the areas I just mentioned which significantly hamper the ability of Federal narcotics investigators to determine who is involved in narcotics trafficking and bring them to justice.

First, in the area of taxes, the Tax Reform Act of 1976 has been a major impediment to the effective prosecution of narcotics dealers. As you know, this act limits the ability of Federal investigators to get tax return or taxpayers information, and it also limits the ability of Federal investigators to get third party information about taxpayers which is in the hands of IRA. A U.S. magistrate could authorize the search of any of our homes upon the proper showing of probable cause and the like, but a U.S. magistrate cannot order taxpayer information turned over to a Federal narcotics investigator. It must be a U.S. district judge. That clogs the court system and it seems that we have placed such an interest in protecting taxpayer information that we have really tied the hands of the people we ask to investigate these crimes. There has to be modification of that law, in our view; and the modification, for example, that the Task Force on Violent Crime recommended, of which I was the executive director; or the bill that Senator Nunn has introduced is along the lines that we think is appropriate.

I won't take your time now to detail those, but the net effect has to be that Federal investigators have the ability to get this information in order to trace higher-ups in illicit narcotics operations.

Second, the Financial Privacy Act places severe impediments on the ability of Federal investigators to have access to bank records. It calls for prior notification to the customers before a bank turns over information to a Federal investigator or, if that prior notification is to be dispensed with, there has to be an ex parte court order to delay notification. It has had a chilling effect on the ability to get bank records and the ability to conduct investigations of banking records.

By the way, it also has one of the most cumbersome processes imaginable. You need a Ph. D. to understand how to comply with the Financial Privacy Act; and each of the acts I am mentioning have their own forms, administrative procedures, and it would take many attorneys, full-time, to figure out how to comply with these acts in a given investigation. We need to have laws which make it easier for Federal investigators to have access to bank records without prior notification to customers. As you probably can well see, that sort of prior notification really makes it impossible to conduct an investigation in a professional law enforcement way. Having to go to court every 90 days to get an order so as not to have to notify the customer before you get the records takes valuable prosecutor time, valuable resources and also involves a prosecutor at a stage in which it might best be handled by only the investigators. An investigator ought to be able to get these records without having to go to court.

The Bank Secrecy Act: We are very concerned that an attempt to get money out of the United States does not violate the law. It is unclear whether an attempt violates the law. There have been bizarre cases in which, in order to try to comply with the law, arrests have been delayed until the airplane has been on the taxiway waiting to leave the United States. Some courts have rules that that does not violate the Bank Secrecy Act if the person has not reported the currency transactions. Since it is only an attempt until the plane is in the air in international air space, the crime is not completed until the person and the money is beyond the reach of the Federal prosecutors. That is a catch-22 situation and makes no sense.

Another area in which we really have handcuffed ourselves is what happens after we get information. We have a statute, the Freedom of Information Act, which mandates the Government to provide information to criminals which assist them in carrying out their purposes. For example, one of the principal uses of the Freedom of Information Act in the area of drugs is by convicted narcotics dealers attempting to identify the informants who testified or provided information against them so that they can eliminate those people. This has had a chilling effect in the Drug Enforcement Administration's view, and has caused a decrease in the number of informants who are willing to come forward. While there is a specific prohibition in the act about having to give out informants' identities, those involved in complex criminal enterprises who receive documentary information from Government files, most often can identify the informant.

Second, there is an exception in the act which allows the Government to refuse to give information to people currently under investigation. A number of people request information merely to find out whether or not they are under investigation. In denying such requests the Government states: "We deny your request to provide you information because this is the subject of an ongoing investigation." It does not take a genius to figure it out when he gets that sort of response. Organized crime is constantly testing us with those sorts of requests.

Third, it is simply used as a way to eat up resources. Fourth, it causes, both internationally and domestically, what can best be described as paranoia about sharing information with the Federal Government. There is widespread fear that this information will not be safe in the hands of the Federal Government, and that it will be turned over to criminals.

Lastly, one thing that does not directly touch on what you are hearing today but every American has to be concerned about this and, frankly, I find it so shocking as to bear mention. Foreign intelligence services routinely use the Freedom of Information Act to get information which will be helpful to them and hurt the interests of the United States. There is no other country that I have ever heard of which has a law that allows this kind of activity to go on.

Once we have convicted someone of a narcotics transaction, it is very unlikely that they will have to part with the fruits of their labors, the forfeiture of proceeds of narcotics transactions. We have laws which provide for criminal forfeiture in cases involving RICO

prosecutions and continuing criminal enterprises. However, the run-of-the-mill narcotics prosecution does not have a criminal forfeiture provision. In order to get the assets that were the profits of a drug venture, one has to go through a separate civil proceeding—time consuming—and it is likely that this will not occur, this being the forfeiture of the assets.

In addition, there ought to be a presumption that any assets which have been garnered by the defendants during the period in which he was engaged in narcotics trafficking are presumed to be from the narcotics traffic. If a defendant says they are not, let him come forward and establish that certain of his assets may have been gotten by legal means.

Assets are often converted, and we ought to have the ability to reach substituted assets, so where narcotics money is put into legitimate businesses we ought to be able to get forfeiture of those legitimate businesses. We also ought, to reach assets after a sham transfer to a third party. In addition, there ought to be restraints against alienation, restraints against moving the assets from the hands of the defendant into a third party's. During the period of investigation we ought to have the ability to go to court and have orders of the court which prohibit the transfer of those assets. Last, we ought to be able to obtain forfeiture of real property. The fact that real property is not forfeitable is an oversight. For example, in the "Continuing Criminal Enterprises" section, real property is not one of the scheduled forfeitable assets.

In summation, when you look at the patchwork quilt of laws which were passed to protect American citizens' privacy and their right to confidential treatment of their bank records, we have created a safe haven in which sophisticated narcotics trafficking can go on. We tie the hands of law enforcement.

Mr. ZEFERETTI. Mr. Powis.

TESTIMONY OF HON. ROBERT E. POWIS, DEPUTY ASSISTANT SECRETARY OF THE TREASURY FOR ENFORCEMENT

Mr. POWIS. I have a brief summary. Since my testimony is concerned mainly with the Treasury Department's use of the Bank Secrecy Act to attack the financial aspects of drug trafficking in Florida, I think that it would be helpful to briefly review the provisions of the act. As you probably know, Mr. Chairman, the act was passed in 1970 after Congress recognized that there was a need to strengthen the ability of Federal law enforcement agencies to investigate white collar and organized crime. Congress was especially concerned about international financial transactions related to tax evasion, securities fraud, and drug trafficking.

The act was designed to make financial transactions related to criminal activity easier to detect and document. Congress was aware that many major criminals use legitimate financial institutions to facilitate their illegal activities. There are two types of provisions to help law enforcement officials investigate the financial aspects of crime. The act provides for recordkeeping standards for banks and savings and loan associations, as well as for a wide variety of other financial institutions. In addition, the act requires reports of certain types of transactions to be filed with the Treasury Department.

The implementing regulations provide for the following reports: (1) IRS Form 4789 [Report of Currency Transaction]. All financial institutions are required to report to the IRS any unusual currency transaction in excess of $10,000. (2) Customs Form 4790 [Report of the international transportation of currency or other monetary instruments]. Except for certain shipments made by banks, the international transportation of currency and certain other monetary instruments in excess of $5,000 are required to be reported to the Customs Service. The civil sanctions for violations of this requirement are especially powerful. Customs can seize the entire amount of unreported currency or other monetary instruments involved in a violation at the time the violation occurs. If a violation is detected too late to effect a seizure, the Assistant Secretary [Enforcement and Operations] can assess a civil penalty equal to the amount of unreported monetary instruments that were not seized and forfeited. (3) Treasury Department Form 90–22.1 [Report of Foreign Bank and Financial Accounts]. Every person who has a foreign financial account or authority over an account is required to file a report.

The reporting requirements are intended to serve two purposes: first, they provide leads and intelligence as to possible violations of law; and, second, they provide added criminal sanctions and thereby create an additional deterrent to illegal activity. The sanctions for criminal violations of the regulations can be as much as a fine of $500,000 and 5 years' imprisonment on each count. The maximum has been imposed in certain cases where the Bank Secrecy Act violations were related to drug violations.

The reporting requirements are interrelated. They complement each other. For example, if banks were not required to report currency transactions, there would be little need for criminals to smuggle money out of the country. Currency simply could be taken into a bank and the funds transferred abroad to a secret bank account without disclosing the identities of the persons directing the transfer or receiving the funds. Conversely, without reports of the import or export of currency, the requirements that banks report large currency transactions would be much less meaningful.

In accordance with the intent of the act, the Treasury Department's implementing regulations delegated specific responsibilities for assuring compliance with the regulations to the following Federal supervisory agencies: (1) the Comptroller of the Currency; (2) the Board of Governors of the Federal Reserve System; (3) the Federal Home Loan Bank Board; (4) the Administrator of the National Credit Union Administration; (5) the Federal Deposit Insurance Corporation; (6) the Securities and Exchange Commission; (7) the Commissioner of Customs; and (8) the Commissioner of Internal Revenue.

Overall responsibility for coordinating the procedures and efforts of the agencies listed above and for administering the regulations was delegated to the Office of the Assistant Secretary [Enforcement and Operations].

Cash flow study: As part of our continuing efforts to improve the implementation of the Bank Secrecy Act, the Treasury Department, in 1979, initiated a study of currency transactions at Federal Reserve offices throughout the United States. As the report of our

findings indicates, it was undertaken "to gather information which would be useful in assessing the effectiveness of the existing reporting requirements and in identifying areas that appear to merit further study or investigation." The data covered the period 1970 through 1978 and showed a constantly increasing supply of currency in circulation. In 1978, for example, an additional $10.2 billion was placed into circulation. We discovered, however, an amazing growth in currency deposits in the Federal Reserve banks in Florida. The discovery of this pattern was a major factor in the Treasury Department's decision to promote and develop "Operation Greenback."

Although the Treasury Department had been aware, from the currency transaction report required by the Bank Secrecy Act, that a large number of huge currency transactions had occurred in Florida since the mid-1970's, the 1979 study provided an overview of the size and accelerating growth of the problem.

"Operation Greenback" was based on two concepts. First, the attack on drug trafficking and other illegal activity should be made through the vulnerability of the financial operations of the violators—not only the income tax laws but the Bank Secrecy Act, which requires the reporting of large currency transactions or the international movement of large amounts of currency should be used. Both laws are within Treasury's investigative jurisdiction. Second, the integration of the criminal investigations should be achieved through the grand jury process with special prosecutors coordinating all of the related criminal investigations, including those involving BATF, FBI, Secret Service, or DEA violations. It should be noted that about 20 percent of the counterfeit bills passed in the United States originate from Colombians and that drug traffickers are often involved in crimes of violence, including the use of illegal firearms and destructive devices. The use of a grand jury permits all of the Federal agents participating in the investigation to pool information, including tax and other financial information. This type of sharing is not permitted under the procedures governing administrative investigations.

In addition to the plans for grand jury investigations, provisions were made for certain administration actions. My office identified 24 banks that had deposited large amounts of currency at the Federal Reserve, and those banks were given indepth examinations by the Federal bank supervisory agencies. Several of the examinations resulted in referrals for criminal investigations. The IRS was also encouraged to undertake civil tax examinations of those persons involved in the large currency transactions.

Approximately 26 IRS special agents, 7 IRS revenue agents, 10 Customs special agents, a squad of DEA agents, and 6 Federal attorneys currently are assigned to the grand jury investigations related to the project. FBI and BATF agents are also involved. The charges being investigated include possible income tax evasion, Bank Secrecy Act violations, and drug charges.

Although the project in Florida is still fairly young, a substantial number of criminal cases have been developed by the IRS and the Customs Service; Customs has seized more than $19 million in currency and monetary instruments.

The reporting requirements in the Bank Secrecy Act have played a key role in these investigations. Many of the reports that have been filed have clearly identified persons who are laundering currency for violators. In addition, many of the indictments are based on attempts to conceal unusual currency transactions from the IRS by failing to file truthful and complete reports.

It is my understanding that IRS and Customs officials from local offices in Florida are going to testify in greater detail concerning the criminal investigations stemming from "Greenback." Nevertheless, I would like to emphasize my belief that the results in Florida alone have already proven the value of the Bank Secrecy Act reporting requirements to Federal law enforcement efforts.

Finally, I would like to point out that we recognize that the enforcement of the requirement to report the international transportation of currency and monetary instruments has been particularly difficult. Although we have good reason to believe that hundreds of millions of dollars actually have been carried or shipped out of the United States to purchase illegal drugs, we have been able to intercept only a very small part of those funds. I fully concur in and support Mr. Harris' position on the need for an "attempt provision" in the Bank Secrecy Act.

Thank you, Mr. Chairman, that concludes my statement. I would be pleased to answer any questions from the committee.

[The prepared statement of Mr. Powis follows:]

PREPARED STATEMENT OF ROBERT E. POWIS

Mr. Chairman and members of the committee, thank you for the opportunity to testify concerning the Treasury Department's efforts to use the laws within its jurisdiction to attack the financial aspects of drug trafficking in Florida and the need to strengthen the Bank Secrecy Act.

I would like to begin with a brief review of the Bank Secrecy Act in order to place our activities in perspective. The Bank Secrecy Act became law in 1970 after extensive hearings in both the House and Senate documented the need to strengthen Federal law enforcement efforts against white collar and organized crime and especially criminal activity involving international financial transactions. Government officials who testified at the hearings described how foreign financial accounts were being used in tax evasion, securities violations, black marketing, and drug trafficking.

The Act was designed to make financial transactions related to criminal activity easier to detect and document. Congress recognized the fact that many major criminals use legitimate financial institutions to facilitate their illegal activities. There are two types of provisions to help law enforcement officials investigate the financial aspects of crime. The Act provides for recordkeeping standards for banks and savings and loan associations as well as for a wide variety of other financial institutions. In addition, the Act requires reports of certain types of transactions. Reports disclosing unusual currency transactions, the international transportation of monetary instruments, and foreign bank or other financial accounts must be filed with the Treasury Department.

The reporting requirements were intended to serve two purposes. First, they provide leads and intelligence as to possible violations of law and, second, they provide added criminal sanctions and thereby create an additional deterrent to illegal activity. This intent is clear in the following quote from the Senate report on the bill:

"Reports are not a foolproof method of preventing organized crime from sending currency out of the country. Obviously, a criminal who is already breaking the law could just as easily ignore the reporting requirement. The significance of requiring reports is that it provides the Justice Department with another means of obtaining a conviction. The mere failure to file a report would constitute a criminal violation much easier to establish compared to proving the funds transported were illegally acquired or were to be used for an illegal purpose. Those who fail to report would be subject to a criminal penalty of a year in prison, a $1,000 fine, or both. If the failure

to report was committed in furtherance of the commission of any other violation of Federal law, or a part of a pattern of illegal activity involving transactions exceeding $100,000 a year, the person who fails to file a report is subject to a much stiffer criminal penalty—5 years in jail or a $500,000 fine, or both. Finally, any unreported currency is subject to seizure and forfeiture to the United States and those who fail to make required reports are liable for a civil penalty equal to the amount of currency transported less any amount already seized and forfeited.

"It is believed that these penalties will constitute a significant deterrent to organized crime. At the same time, the Secretary has broad discretionary authority to return seized currency or waive the civil penalties which he could use to prevent ordinary citizens or businessmen for being unduly penalized from an inadvertent violation."

The reporting requirements authorized by the Act are interrelated. They complement each other. For example, if banks were not required to report currency transactions, there would be little need for criminals to smuggle money out of the country. Currency simply could be taken into a bank and the funds transferred abroad to a secret bank account without disclosing the identities of the persons directing the transfer or receiving the funds. Conversely, without reports of the import or export of currency, the requirement that banks report large currency transactions would be much less meaningful.

IMPLEMENTING REGULATIONS

Although the Bank Secrecy Act gives the Secretary wide discretion in its implementation, the Act states that only records and reports for "have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings" should be required. With that background, in 1972, the Treasury Department issued regulations which require banks to maintain certain basic records, including the following: canceled checks and debits over $100; signature cards; statements of account; extensions of credit in excess of $5,000; and records of international transfers of more than $10,000.

The regulations also provide for the following reports:

IRS Form 4789 (Report of Currency Transactions). All financial institutions are required to report to the IRS any unusual currency transaction in excess of $10,000. Although this is only a modification of a similar requirement that was in effect for more than 25 years, this requirement was challenged in the courts. The Secretary was prohibited from enforcing it until May, 1974, when the U.S. Supreme Court upheld the constitutionality of the Bank Secrecy Act and the implementing regulations.

Customs Form 4790 (Report of the International Transportation of Currency or Other Monetary Instruments). Except for certain shipments made by banks, the international transportation of currency and certain other monetary instruments in excess of $5,000 are required to be reported to the Customs Service. The civil sanctions for violations of this requirement are especially powerful. Customs can seize the entire amount of unreported currency or other monetary instruments involved in a violation at the time a violation occurs. If a violation is detected too late to effect a seizure, the Assistant Secretary (Enforcement and Operations) can assess a civil penalty equal to the amount of unreported monetary instruments that were not seized.

Treasury Department Form 90-22.1 (Report of Foreign Bank and Financial Accounts). The Act provides specific legal authority to require reports of foreign bank accounts. The IRS, however, put the foreign bank account question on the income tax returns for 1970 and issued IRS Form 4683, the predecessor of Form 90-22.1, on the basis of its authority under the Internal Revenue Code. Consequently, the first reports of foreign financial accounts were filed with the IRS in 1971 even before the Treasury regulations requiring such reports were issued in 1972. The disclosure that a Form 4683 had been filed arguably was, in effect, a disclosure of the fact that an income tax return had been filed. Consequently, there was concern, with the passage of the Tax Reform Act of 1976, that dissemination of these reports outside IRS was prohibited. Therefore, in 1977, we decided to separate the foreign bank account report from the tax return and to have it filed directly with the Office of the Secretary. The change was made to permit the information to be made available to other agencies as the Bank Secrecy Act intended. At that time, the form was changed to Treasury Department Form 90-22.1.

The sanctions for criminal violations of the regulations can be as much as a fine of $500,000 and 5 years imprisonment on each count. The maximum has been imposed on certain cases where the Bank Secrecy Act violations were related to drug violations.

MONITORING FINANCIAL INSTITUTIONS COMPLIANCE

In accordance with the intent of the Act, the Treasury Department's implementing regulations delegated responsibility for assuring compliance with the regulations to existing Federal bank supervisory agencies. The delegation is as follows:

(1) To the Comptroller of the Currency, with respect to national banks and banks in the District of Columbia;

(2) To the Board of Governors of the Federal Reserve System, with respect to State bank members of the Federal Reserve System;

(3) To the Federal Home Loan Bank Board, with respect to insured building and loan associations, insured savings and loan associations, and insured institutions as defined in Section 401 of the National Housing Act;

(4) To the Administrator of the National Credit Union Administration, with respect to Federal credit unions;

(5) To the Federal Deposit Insurance Corporation, with respect to all other banks except agents of foreign banks which agents are not supervised by State or Federal bank supervisory authorities. The exception pertains to persons who represent foreign banks in this country but do so surreptitiously or in such a manner that they are not regulated by State or Federal authorities. Responsibility for this group has been delegated to the IRS.

(6) To the Securities and Exchange Commission, with respect to brokers and dealers in securities;

(7) To the Commissioner of Customs with respect to reports of the international transportation of currency or monetary instruments. The regulations give him the authority to seize currency and monetary instruments which have not been properly reported.

(8) To the Commissioner of Internal Revenue except as otherwise specified in this section.

Overall responsibility for coordinating the procedures and efforts of the agencies listed above and for administering the regulations was delegated to the Office of the Assistant Secretary (Enforcement and Operations).

CASH FLOW STUDY

As part of our continuing efforts to improve the implementation of the Bank Secrecy Act, in 1979 the Treasury Department initiated a study of currency transactions at Federal Reserve offices throughout the United States. As the report of our findings indicates, it was undertaken "to gather information which would be useful in assessing the effectiveness of the existing reporting requirements and in identifying areas that appear to merit further study or investigation." The data covered the period 1970 through 1978 and showed a constantly increasing supply of currency in circulation. In 1978, for example, an additional $10.2 billion was placed into circulation. Our analysis of the data highlighted at least two patterns which warranted additional investigation.

One of the patterns disclosed an unusually large volume of $100 bills that had been added to circulation by the Federal Reserve Bank in New York. This phenomenon, which is still being studied, appears to have been significantly related, in part, to ecomomic problems in other nations.

The other pattern disclosed by the study was the amazing growth in currency deposits in the Federal Reserve banks in Florida. The discovery of this pattern was a major factor in the Treasury Department's decision to promote and develop "Operation Greenback."

During the years 1974 through 1980, while the overwhelming majority of Federal Reserve banks found it necessary to add hundreds of millions of dollars to the total currency in circulation, the banks in Florida had surpluses of currency deposits and removed billions from circulation. In 1974 the deposits in Federal Reserve banks in Florida totalled $2.9 billion; by 1980 they had jumped to $9.2 billion. The net surplus, the amount removed from circulation, was $5.8 billion in 1980.

Although the Treasury Department had been aware, from the currency transaction reports required by the Bank Secrecy Act, that a large number of huge currency transactions have occurred in Florida since the mid-1970's, the 1979 study provided an overview of the size and accelerating growth of the problem.

Operation Greenback was based on two concepts. First, the attack on drug trafficking and other illegal activity should be made through the vulnerability of the financial operations of the violators—not only the income tax laws but the Bank Secrecy Act, which requires the reporting of large currency transactions or the international movement of large amounts of currency. Both laws are within Treasury's investigative jurisdiction. Second, the integration of the criminal investiga-

tions should be achieved through the grand jury process with special prosecutors coordinating all of the related criminal investigations including those involving BATF, FBI, Secret Service, or DEA violations. It should be noted that over 20 percent of the counterfeit bills passed in the United States originated from Colombians and that traffickers are often involved in crimes of violence including the use of illegal firearms and destructive devices. The use of a grand jury permits all of the Federal agents participating in the investigation to pool information, including tax or other financial information. This type of sharing is not permitted under the procedures governing administrative investigations.

In addition to the plans for grand jury investigations, provisions were made for certain administrative actions. My office identified 24 banks that had deposited large amounts of currency at the Federal Reserve, and those banks were given in-depth examinations by the Federal bank supervisory agencies. Several of the examinations resulted in referrals for criminal investigations. The IRS was also encouraged to undertake civil tax examinations of those persons involved in the large currency transactions.

Approximately 26 IRS special agents, 7 IRS revenue agents, 10 Customs special agents, a squad of DEA agents, and 6 Federal attorneys currently are assigned to the grand jury investigations related to the project. FBI and BATF agents are also involved. The charges being investigated include possible income tax evasion, Bank Secrecy Act violations, and drug charges.

Although the project in Florida is still fairly young, a substantial number of criminal cases have been developed by IRS and the Customs Service.

INTERNAL REVENUE SERVICE (COB AUG. 31, 1981)

	Banks	Individuals
Total criminal investigations authorized	23	66
Under indictment		25
Declined		3
Referrals pending	2	
Referrals rejected	6	

U.S. CUSTOMS SERVICE (COB SEPT. 30, 1981)

Number of active major investigations	17
Suspects under indictment	43
Currency seized	$19,291,264

The reporting requirements in the Bank Secrecy Act have played a key role in these investigations. Many of the reports that have been filed have clearly identified persons who are laundering currency for violators. In addition, many of the indictments are based on attempts to conceal unusual currency transactions from the IRS by failing to file truthful and complete reports.

It is my understanding that IRS and Customs officials from local offices in Florida are going to testify in greater detail concerning the criminal investigations stemming from Greenback. Nevertheless, I would like to emphasize my belief that the results in Florida alone have already proven the value of the Bank Secrecy Act reporting requirements.

Finally, I would like to point out that we recognize that the enforcement of the requirement to report the international transportation of currency and monetary instruments has been particularly difficult. Although we have good reason to believe that hundreds of millions of dollars actually have been carried or shipped out of the United States to purchase illegal drugs, we have been able to intercept only a very small part of those funds. We know, for example, that in excess of 200 million dollars in currency is returned to the U.S. each year from banks in drug significant South American countries.

Mr. ZEFERETTI. Thank you, Mr. Powis.

Mr. Coates.

TESTIMONY OF HON. PHILIP E. COATES, ASSISTANT COMMISSIONER FOR COMPLIANCE, INTERNAL REVENUE SERVICE

Mr. COATES. Thank you, Mr. Chairman. The IRS is strongly committed to participating in the concerted Federal antinarcotics

campaign, because those who profit are likely to receive substantial income on which no tax has been paid.

Before discussing our enforcement programs aimed at narcotics trafficking, I would like to begin by outlining briefly the Service's overall efforts to deal with criminal violations of our tax laws. The IRS Criminal Investigation Division [CID] allocates resources to two areas, a general enforcement program [GEP] and special enforcement program [SEP]. GEP is aimed at those individuals and businesses deriving their income from legal activities but attempting to illegally shield that income from tax collection. The Service attempts to identify and investigate areas of high noncompliance, and where appropriate, achieve broad geographical and occupational coverage.

SEP deals with those individuals and organizations which derive substantial income from illegal activities, most of which also is not reported to the IRS. Such illegal activities include narcotics trafficking, organized crime, gambling, labor racketeering, et cetera. As part of the Service's SEP, we coordinate with other law enforcement agencies. These efforts include our participation in the Department of Justice strike force program, as well as our program to investigate high-level drug traffickers and financiers with assistance from Customs and the Drug Enforcement Administration, including participation in the Florida cash flow project—Operation Greenback.

During fiscal year 1982 the Service plans to devote approximately 45 percent of its direct investigative time to SEP. This is a substantial increase over the 19 percent that the program received in fiscal year 1976 and reflects our continued belief that the enormous profits reaped by organized crime must not be allowed to escape taxation. The Criminal Investigation Division's total case inventory, as of August 28, 1981, consisted of 5,836 criminal investigations of which 3,711 are GEP cases and 2,128, or 36.4 percent, involve cases related to illegal activities under SEP.

With this perspective, I would now like to discuss what the Service is doing nationally to investigate drug traffickers and later touch upon our participation in "Operation Greenback" in Florida. In increasing our SEP resources, we have placed a greater emphasis on criminal investigation of narcotics cases similarly. For example, our inventory of narcotics cases under criminal investigation has continued to increase from 300 cases at the close of the fiscal year 1979 to 850 cases as of August 1981. The number of investigations resulting in prosecution recommendations also has increased substantially, from 49 in fiscal year 1980 to 141 in fiscal year 1981, through August 28, 1981. In the civil area, the number of examinations in inventory increased from 2,102 at the close of fiscal year 1980 to 2,443 as of June 1981. Our Criminal Investigation Division has more than doubled its expenditure of resources for narcotics investigations, from 232 staff-years in fiscal year 1980 to over 500 staff-years in fiscal year 1981.

During fiscal year 1980 taxes totaling $81.2 million were assessed as a result of our narcotics traffickers program. During the first 6 months of fiscal year 1981, $75.4 million has been assessed. Although termination and jeopardy assessments have been important tools for quick attachment of funds on deposit, currency already

laundered and placed beyond the reach of IRS is obviously not subject to seizure by our Collection Division. In addition, it should be noted that jeopardy and termination assessments are also subject to adjustments resulting from subsequent filing of returns, Tax Court litigation, et cetera. I will discuss this subject further when I respond to the committee's request for views on problems associated with our narcotics tax program.

I will skip through several of the initiatives that the Service has taken in this area. They are all a part of the opening statement.

Mr. ZEFERETTI. The testimony will be made part of the record.

Mr. COATES. I will focus very briefly on our narcotics program, Greenback, and some of the problems that are inhibiting our efforts. Greenback is probably the most significant single law enforcement effort developed to date from the Bank Secrecy Act reporting requirements. The Service currently has 26 special agent criminal investigators assigned to the project and an additional seven revenue agents are assigned to assist in grand jury investigations. Through August 1981, of the 89 cases authorized by Treasury, the Jacksonville District has initiated 72 criminal investigations that involved the laundering of illegally generated profits, substantially from narcotics trafficking. The primary violation in most cases are title 31 and related offenses; that is, conspiracy.

For comparison purposes, nationally 18.3 percent of our direct investigative resources are devoted to our high-level drug leaders tax enforcement project; whereas the Jacksonville District devoted 51 percent of direct investigative resources to the program.

It should be noted that of the 850 narcotics program cases in inventory nationwide, 412 are being investigated in conjunction with Federal grand jury proceedings. Many of the drug traffickers cases involve subjects for whom substantive criminal violations cannot be proven, but where tax violations are apparent. Most of the 412 grand jury cases are being conducted jointly with DEA and/or Customs. DEA and Customs investigate narcotics aspects, IRS pursues tax violations. By combining the two areas of expertise, evidence of the source of funds can be coupled with the accumulation of assets, thus improving the chances for successful prosecution.

Multiagency financial investigative forces, similar to "Operation Greenback" in Florida and under the guidance of the U.S. attorney's office via a grand jury, have been developed to identify narcotics traffickers. These teams, which are primarily in our western region, are utilizing Bank Secrecy Act reports to a great extent. One case which benefited from this approach was the *Araujo* case in Los Angeles which involved $32 million in income from narcotics sales over a 3-year period.

I would like now to respond to the committee's inquiry concerning problems associated with enforcement of the tax statutes in relation to narcotics traffickers. There are three specific areas which the Service believes are inhibiting our efforts to address the drug trafficking problem.

The first area concerns rule 6(e) of the Federal Rules of Criminal Procedure. Rule 6(e) imposes a secrecy requirement on information gathered during the course of a grand jury investigation. More than half of our narcotics trafficker investigations are grand jury

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investigations. Before any information covered by rule 6(e) may be disclosed and used for civil tax purposes a court order must be obtained from the district court supervising the grand jury. One requirement for obtaining such an order is that the information to be obtained must be requested preliminary to or in connection with a judicial proceeding. Recent court decisions have restricted the definition of what activities may be considered to be preliminary to a judicial proceeding and, accordingly, have not permitted the Service to use the information developed by our own agents. This trend has been particularly evident in the fifth circuit, which encompasses the State of Florida and where much of the narcotics activity is located. Thus, in the fifth circuit the Service may not be able to obtain grand jury information in order to determine the civil tax liability of an alleged drug trafficker unless the Supreme Court or the Congress resolves the problem associated with rule 6(e).

The second matter which has caused problems in narcotics cases is the summons provisions of Internal Revenue Code section 7609. Any time we serve a summons on a third party recordkeeper, if they ask for a stay, it is incumbent upon the Government to go into court to enforce the summons. This problem is discussed in greater detail in my complete opening statement.

The final major concern that I would like to comment on is the limitations of the legal machanisms available for the Service to use to seize the enormous amounts of currency being laundered. Our Criminal Investigations Division has estimated that in the Operation Greenback investigations alone, hundreds of millions of dollars of currency have been laundered through Florida banks. Attempts to seize these funds for tax collection purposes, however, face two difficulties. First if the short length of time that funds remain in a bank. Once the funds are deposited, they are frequently wired to secret foreign bank accounts in tax haven countries, often within a few hours. Also, the funds may be transferred into other foreign-domestic investments through layers of fictitious entities or converted into less suspicious forms, such as cashiers checks or certificates of deposit.

In contrast, reports of the currency deposits are not required to be filed until 15 days after the transaction. The initial stages of the laundering process are ordinarily completed within a few days. By the time the currency reports are filed and the Service becomes aware of the deposits, the funds have been put beyond our reach.

A second difficulty can arise even when we are aware of a large deposit in an account, and only a small percentage of those funds actually belong to the money launderers. The IRS lacks the authority to seize the remaining funds because it does not know the true owner or whether that person has a tax liability.

Because our agents in Operation Greenback are heavily involved in money laundering investigations, the Jacksonville district has had greater success in making jeopardy and termination assessments than other districts in the country. The problems still exist, however, and I presently know of no solution. One alternative that we have asked the Department of the Treasury to consider is to attempt to pursue legislation that would make it a criminal violation to attempt to violate the currency reporting requirements, and

that would also provide civil forfeiture provisions for such violations.

This would allow the Service to make a forfeiture under title 31 as soon as the funds are deposited into the bank, if the evidence indicates the funds are about to be laundered and placed beyond the reach of the Government.

Mr. Chairman, this concludes my testimony. Anthony Langone, Assistant District Director for the Jacksonville District, will be testifying later on the details of Operation Greenback, accompanied by Mike McDonald, a group manager in the Criminal Investigation Division. I would now be pleased to respond to any questions the committee may have.

[The prepared statement of Philip E. Coates follows:]

PREPARED STATEMENT OF PHILIP E. COATES

Mr. Chairman and members of the select committee, I am pleased to appear before the Select Committee today to discuss the Service's role in investigating high-level narcotics traffickers for both tax violations as well as violations of the Bank Secrecy Act.

The Service believes that devoting substantial resources to the investigation of narcotics trafficking is appropriate not only because of a significant amount of unreported income involved but also to maintain public confidence in the perception that the tax laws are administered fairly and evenhandedly. The Service is strongly committed to participation in the concerted federal anti-narcotics campaign because those who profit from illegal narcotics trafficking are likely to receive substantial income on which no tax has been paid.

Before discussing our enforcement programs aimed at narcotics trafficking, I would like to begin by outlining briefly the Service's overall efforts to deal with criminal violations of our tax laws. The IRS Criminal Investigation Division (CID) allocates resources to two areas, a general enforcement program (GEP) and a special enforcement program (SEP). GEP is aimed to those individuals and businesses deriving their income from legal activities but attempting to illegally shield that income from tax collection. The Service attempts to identify and investigate areas of high noncompliance, and where appropriate, achieve broad geographical and occupational coverage.

SEP deals with those individuals and organizations which derive substantial income from illegal activities, most of which also is not reported to the IRS. Such illegal activities include narcotics trafficking, organized crime, gambling, labor racketeering, etc. As part of the Service's SEP, we coordinate with other law enforcement agencies. These efforts include our participation in the Department of Justice Strike Force Program, as well as our program to investigate high-level drug traffickers and financiers with assistance from Customs and the Drug Enforcement Administration, including participation in the Florida Cash Flow Project (Operation Greenback).

During fiscal year 1982 the Service plans to devote approximately 45 percent of its direct investigative time to SEP. This is a substantial increase over the 19 percent that the program received in fiscal year 1976, and reflects our continued belief that the enormous profits reaped by organized crime must not be allowed to escape taxation. The Criminal Investigation Division's total case inventory, as of August 28, 1981, consists of 5,836 criminal investigations of which 3,711 are GEP cases and 2,128 or 36.4 percent involve cases related to illegal activities under SEP.

With this perspective, I would now like to discuss what the Service is doing nationally to investigate drug traffickers and later touch upon our participation in "Operation Greenback" in Florida. In increasing our SEP resources, we have placed a greater emphasis on criminal investigation of narcotics cases similarly. For example, our inventory of narcotics cases under criminal investigation has continued to increase from 300 cases at the close of the fiscal year 1979 to 850 cases as of August 1981. The number of investigations resulting in prosecution recommendations also has increased substantially, from 49 in fiscal year 1980 to 141 in fiscal year 1981 through August 28, 1981. In the civil area, the number of examinations in inventory increased from 2,102 at the close of fiscal year 1980 to 2,443 as of June, 1981. Our Criminal Investigation Division has more than doubled its expenditure of resources for narcotics investigations, from 232 staff years in fiscal year 1980 to over 500 staff years in fiscal year 1981.

During fiscal year 1980, taxes totalling $81.2 million were assessed as a result of our narcotics traffickers program. During the first six months of fiscal year 1981, $75.4 million has been assessed. Although termination and jeopardy assessments have been important tools for quick attachment of funds on deposit, currency already laundered and placed beyond the reach of IRS is obviously not subject to seizure by our Collection Division. In addition, it should be noted that jeopardy and termination assessments are also subject to adjustments resulting from subsequent filing of returns, tax court litigation, etc. I will discuss this subject further when I respond to the Committee's request for views on problems associated with our narcotics tax program.

We have begun recently a joint program with DEA to enhance collection of deficiencies from narcotics traffickers. This program will enable Collection personnel to obtain the latest information concerning assets, addresses, and other pertinent information on open delinquent accounts involving drug traffickers from a sophisticated DEA computer system.

The Service's specific responsibilities under the Bank Secrecy Act involve limited jurisdiction with respect to the recordkeeping and reporting requirements of secondary financial institutions and money-laundering specialists. However, our Criminal Investigation Division, at the request of the Assistant Secretary (Enforcement and Operations) has conducted criminal investigations of major financial institutions for violations of the Bank Secrecy Act.

The Service has also initiated other programs to utilize reports required under the Bank Secrecy Act. For example:

In addition to our use of currency transaction reports (Forms 4789) for criminal purposes, all such forms for the tax years 1979 and 1980 are being transcribed and entered into the Information Return Selection System (IRSS) file by the IRS. IRSS transcripts of this data will be associated with all tax returns selected from Discriminant Function (DIF) inventory regardless of source code; all returns selected from Self-Employment Tax (SET) and DIF Correspondence Inventories; as well as all returns from the Taxpayer Compliance Measurement Program (TCMP). Basically, this means that all 1979 and 1980 Forms 4789 data contained on IRSS will be associated with related individual returns that are selected for examination.

In 1980, the currency reporting provisions were amended, Form 4789 was revised, and a report perfection procedure developed and implemented by IRS at our Ogden Service Center. These were major steps forward in the refining of the information being entered into the Bank Secrecy Act data base. As Treasury makes the financial community more fully aware of the changes, the data will become even more valuable to the IRS, Customs, and other law enforcement agencies.

IRS has mailed a Bank Secrecy Act "Compliance Package" to all federally insured banks and savings and loan associations. This mailing furnished financial institutions with material that can be used to alert their employees to the filing requirements.

From 1974 through 1980, IRS initiated 432 criminal investigations based on currency transaction report information. Since 1977, nine additional criminal cases have been initiated as a result of data from the Forms 4790 (Report of International Transportation of Currency or Monetary Instruments).

The IRS Collection Division is testing the usefulness of the Currency Transaction Report (Form 4789), Report of International Transportation of Currency or Monetary Instruments (Form 4790) and Report of Foreign Bank and Financial Accounts (Form 90-22.1) in four large districts with significant Customs activity over a six-month period. The IRS Examination Division has developed a plan to canvass all regions and extract report data on cases under examination. The canvass will include between 3,000 and 4,000 open Special Enforcement Program (SEP) cases (i.e., narcotics traffickers, labor racketeers, organized crime subjects, etc.) It is anticipated that the Collection Division test and the canvass will establish a basis for evaluating the usefulness of currency transaction report information in these areas.

The currency reports, generated as a result of the Bank Secrecy Act reporting requirements, are being used to help identify and convict narcotics traffickers in all parts of the country. The reports help identify bank accounts and specific transactions which are needed to complete the financial investigations. Also by identifying bank accounts, any ultimate seizures of assets can, at times, be enhanced.

The most significant single law enforcement effort developed to date from the Bank Secrecy Act reporting requirements has been "Operation Greenback". The Service currently has 26 Special Agent Criminal Investigators assigned to the project and an additional seven Revenue Agents are assigned to assist in grand jury investigations. Through August, 1981, of the 89 cases authorized by Treasury, the Jacksonville District has initiated 72 criminal investigations that involved the laun-

dering of illegally generated profits, substantially from narcotics trafficking. The primary violation in most cases are Title 31 and related offenses, i.e., conspiracy.

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The second matter which has caused problems in narcotics tax cases is the summons provisions of Internal Revenue Code Section 7609. This section has resulted often in a great delay in our obtaining access to records essential to an investigation when they are in the possession of a third-party recordkeeper. When a summons is issued, the bank or other third-party recordkeeper is required to notify the person whose records are requested of our summons. If that person, for any reason, notifies the bank (etc.) not to comply, we must go into court to enforce the summons. Since by definition the term "third-party recordkeeper" includes banks, savings and loan institutions, consumer reporting agencies, extenders of credit through the use of credit cards, stockbrokers, and attorneys or accountants, a narcotics trafficker may seriously hamper an investigation through delaying tactics.

Some relief would be afforded if the Internal Revenue Code provisions were in line with the Right of Financial Privacy Act. Under that act, a person whose records are sought has the responsibility to bring the court action to prevent the production of records.

The final major concern that I would like to comment on is the limitations of the legal mechanisms available for the Service to use to seize the enormous amounts of currency being laundered. Our Criminal Investigations Division has estimated that in the "Operation Greenback" investigations alone, hundreds of millions of dollars of currency have been laundered through banks in the Miami and Tampa areas.

Attempts to seize these funds for tax collection purposes, however, face two difficulties. First is the short length of time that funds remain in a bank. Once the funds are deposited, they are frequently wired to secret foreign bank accounts in tax haven countries, often within a few hours. Also, the funds may be transferred into other foreign domestic investments through layers of fictitious entities, or converted into less suspicious forms, such as cashiers' checks or certificates of deposit.

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This would allow the Service to make a forfeiture under Title 31 as soon as the funds are deposited into the bank, if the evidence indicates the funds are about to be laundered and placed beyond the reach of the Government.

Mr. Chairman, this concludes my testimony. Anthony Langone, Assistant District Director for the Jacksonville District, will be testifying later on the details of "Operation Greenback" accompanied by Mike McDonald, a group manager in the Criminal Investigation Division. I would now be pleased to respond to any questions the Committee may have.

Mr. ZEFERETTI. Thank you, Mr. Coates.

Mr. Harris, most of the language that is in some of these bills or statutes, whether it be the Financial Privacy Act, the Tax Reform Act, et cetera, is so restrictive, every time we try and do something with it conflicts of policy considerations or constitutional questions arise. You heard the attorney general of the State of Florida. We were talking about specific language in defining the law that could make our job a little bit easier, defining the law. Is there anything that you could help us with? Is there any language that you might suggest that would open up that definition process, so that we don't have those barriers whenever we try to do something to give you the kind of tools to do your job?

Mr. HARRIS. We will be coming forward with some Freedom of Information Act legislation and other legislation. One way that this committee can be particularly helpful is to act as a clearinghouse. What happens is, for example, on the bank records question and financial privacy, there is one way to avoid the prior notification, and that is to go via the grand jury investigation. That sounds pretty reasonable. So we get the bank records by going via the grand jury route, and because of rule 6(e) we are prohibited from giving them to IRS because we went by the grand jury route. Under the Financial Privacy Act we have to notify the customer. My point being that when various committees, the Banking Committee and the Government Operations Committee passed these various pieces of legislation, there is no one place such as your committee, where we can say look at how they fit together and look at the impact they will have on drug investigations. We would be very pleased to work with you.

Mr. ZEFERETTI. You get criticized by the GAO for not sharing information. There was a recent report that took Treasury a little bit over the coals for not sharing this very same kind of information. They call it a spirit of cooperation between agencies, and you have that problem. But it is a legal problem beyond that, and that is something that we must address if we are ever going to solve the problem. There are presently three bills on forfeiture that we are trying to get passed in the House. I have one, Mr. Gilman does, and

Mr. Sawyer of Michigan has one. Have you looked at any of them and can you judge their merits?

Mr. HARRIS. Mr. Dennis, who heads the Narcotics Section of the Criminal Division, has previously testified specifically on those bills and the way they fit together. And I would be pleased to make sure your committee has a copy of his testimony.

Mr. ZEFERETTI. I appreciate that because one of them has a constitutional question involved in it which goes to the presumptive section that you were talking about earlier. There has been some challenges to it.

Mr. HUTTO. Would you yield? Some of us not being lawyers don't understand some of these things.

Mr. ZEFERETTI. I am not a lawyer, either.

Mr. HUTTO. Well, you are pretty good. You have referred several times to constitutional problems. What provision, specifically, in the Constitution is causing them this problem?

Mr. ZEFERETTI. I will let the lawyers answer that.

Mr. HUTTO. Is our Constitution that restrictive?

Mr. HARRIS. A number of issues in this area in terms of the Government's right to information do reach constitutional proportion, as well as the question of taking property without due process of law. And the question of what is required to meet constitutional muster is often raised. So when you are attempting to remove someone's boat or car or bank account under the charge that it represents the proceeds of an illegal activity, the first ground of attack for a good defense lawyer is to say the statute is unconstitutional before you get into the specifics of the case.

Mr. ZEFERETTI. One other question. How is Justice working with or utilizing the resources of DEA the FBI and Customs in putting together a financial investigation against drug traffickers? Are you using the information and their resources to the best advantage?

Mr. HARRIS. Within the Justice Department, as I said in my testimony, we are very shortly going to come forward with some suggestions for better ways to use the Justice agencies, primarily DEA and the FBI, to insure that the financial expertise of the FBI is fully brought to bear as is their organized crime expertise in narcotics.

Yesterday in Washington, I met with John Walker, who is the Assistant Secretary of the Treasury for Enforcement, as did Rudolph Giuliani, to discuss specifically the reinvolvement of the Customs Service in narcotics.

Mr. ZEFERETTI. You are not talking merger?

Mr. HARRIS. No, we are not talking merger. I am talking about really getting the people in the trenches, the on-line agents working in a cooperative way.

Mr. ZEFERETTI. Most of the banking officials that have been talking to our committee regarding the Banking Secrecy Act feel that there has not been a kind of communication, a kind of advice and working arrangement with your agency for a better understanding of compliance requirements. As I said earlier, they feel threatened a little bit, and they don't feel there is a cooperative arm to lend them some assistance. Is there any way we can shore that up and any way you might provide the assistance that they

need, give them the kind of confidence they need to fulfill their obligation?

Mr. POWIS. There are some things we can do. I can understand some of the feeling of being threatened. Some of the media accounts of banks' involvement, and so forth are a bit scary. We changed the regulations in 1980, and it takes a little time for some of the information to shake down. Our office is constantly in contact with banks and bankers and banking associations, but we may be able to do something in terms of bankers in this area, meeting with them, talking to them.

We certainly are not interested in scaring legitimate banks and bankers, and we are interested in their cooperation as much as most of them are interested in cooperating with us.

Mr. ZEFERETTI. I appreciate hearing that because with this feeling of threat that is out there, you have to get people together.

Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman. I welcome the panel's information. Mr. Harris, something you said bothered me, that you are trying to get Customs involved again in narcotics. Where has Customs been?

Mr. HARRIS. Well, During the years which I was out of the executive branch, the last 4 years and a little before that, the involvement that I recall when I was assistant U.S. attorney in the early 1970's and the number of agents committed to narcotics is not what it was. Mr. Powis can give you a little better background.

Mr. GILMAN. It is my impression that Customs has been working with us in narcotics. Have they been left out in the cold?

Mr. POWIS. The Reorganization Plan No. 2 of 1972 prohibited Customs from investigating drug smuggling cases and prohibited them from gathering drug smuggling intelligence. They are in the drug business very heavily in terms of the interdiction effort. The crime interdiction agency for drug smuggling and any kind of smuggling is the U.S. Customs.

Mr. GILMAN. Just the investigative portion of getting into investigations of smuggling, they have been actively involved, have they not?

Mr. POWIS. That is correct.

Mr. GILMAN. You mentioned you met with some of the folks yesterday in Washington. How many meetings of this nature have you had in planning a comprehensive intelligence plan and strategy?

Mr. HARRIS. I couldn't give you a number.

Mr. GILMAN. I am talking about you personally. You arranged a meeting yesterday.

Mr. HARRIS. Four, six, somewhere in that neighborhood.

Mr. GILMAN. Was this with Treasury, IRS?

Mr. HARRIS. With the Treasury Department. On a couple of meetings, there may have been meetings with the IRS, the Office of the Assistant Secretary of the Treasury for Enforcement.

Mr. GILMAN. For how long have you been meeting?

Mr. HARRIS. Spring and summer; March, April, right up to now.

Mr. GILMAN. Have you developed a plan now as a result of these meetings?

Mr. HARRIS. Primarily we have been, with the Treasury Department, exploring the ways we can have the Customs agents involved in more than simply the border interdiction as they used to be, and also I have been talking with them about the best ways of allowing the IRS to get involved.

Mr. GILMAN. Has there evolved a strategy, a plan?

Mr. HARRIS. I think so, the primary piece of the strategy with regard to Customs is to find a way to get them reinvolved in more than the border interdiction of narcotics, but to use their intelligence expertise in the narcotics efforts. That is still ongoing, and we have made substantial progress.

Mr. GILMAN. What about getting Treasury and IRS involved?

Mr. HARRIS. My impression is IRS is more than willing and would like to be able to do so and feel they are acting within the law. It is the legal impediments which concern them.

Mr. GILMAN. Is anyone calling on them to get them involved?

Mr. HARRIS. We almost got the Tax Reform Act changed in the last—the last time it came up, and we are working to change that.

Mr. GILMAN. Do you need that Tax Reform Act to get them involved in a major national strategy to do something about getting financial assets seized and that sort of thing? Do you need to reform the Tax Act?

Mr. HARRIS. I think so, with the personal liability and the criminal liability.

Mr. GILMAN. You mean under the present law IRS can't be of more help to you in seizing financial assets, in tracing the flow of money and trying to do something about taking the profit out of all of this?

Mr. HARRIS. They can by shifting manpower, and they are working on doing that. Short of removing some of the legal impediments to information sharing, that would be helpful.

Mr. GILMAN. Who is working on trying to pull all of this together in the administration?

Mr. HARRIS. With regard to the Tax Reform Act both the Treasury Department and the Justice Department have been working toward getting changes, and we got very, very close, as you know.

Mr. GILMAN. You mentioned before that you were having problems trying to focus in on one committee. Wouldn't that be essentially the Judiciary Committee's responsibility? Have you talked with them?

Mr. HARRIS. The problem is that the banking—the banking laws go to the Banking Committee and other laws go to other committees, and very often they come up with different administrative schemes and different legal schemes for accomplishing their purposes. When you put them together, they very often create different sets of regulations, different sets of forms, and don't fit together terribly well; and it would be helpful to have one place, and maybe, as you say, Judiciary is the place where those would all funnel through and make sure they are consistent, at least in their administrative schemes.

Mr. GILMAN. Just as helpful would be a comprehensive plan by the administration presented to show how all of these pieces fit together. Our committee would be willing to work in that direction. What we are looking for again, as we did in prior administrations,

is for some leadership in the national strategy. That is what is sorely lacking here. And I would hope that maybe the meetings that you have started could result in putting together a more effective strategy.

Mr. Powis, you talk about the value of the Bank Secrecy Act, do you not? I assume all three of you recognize the importance of the act.

Mr. POWIS. Yes, sir.

Mr. GILMAN. Why is it that the GAO, in its report in July of 1981, says, "After 10 years, reports required by this act are not widely used by law enforcement agencies." They even talk about eliminating the act because it has not been properly used, and they talk about Treasury not developing a coordinated compliance enforcement policy are not getting the information out, not making the data readily available to law enforcement. If it is so valuable a tool, why aren't we using it?

Mr. POWIS. We took some exeception to the GAO report. We pointed out a situation where several hundred thousand usages were not accounted for in terms of the GAO report. It is being used. It is a situation where the bill was passed in 1970. Because of legal problems, there could be no implementation until 1974. It really got off the ground in 1977, and the stride since 1977 has been substantial.

Mr. GILMAN. This report is dated July 1981, only a few months ago. They are saying you are not using them properly, and they make many recommendations here. They say you are not allocating the staff that is necessary to effectively eliminate it; dissemination of guidelines is sorely lacking; you are not working with the financial institution's regulatory agencies in developing a workable compliance enforcement program that needs to be developed in cooperation with the Customs Report Analysis Branch and the financial institution regulatory agencies; and they go on and on with a number of areas that need to be attended to.

If this is such an important tool, it would seem to me you would be giving it greater attention. And I might say IRS even expressed skepticism, where they said skepticism exists as to whether or not form 4790 can even be useful. They say the bank account question is yet to be established and raised some other questions with regard to utilization. If this is such an important tool, I would hope your department would follow some of these recommendations and make it a workable mechanism so we can accomplish what we are seeking to do.

Mr. POWIS. As we indicated to Chairman Minish, we certainly intend to follow some of the recommendations. We also must point out that in terms of staff there have been improvements.

In 1979, the function of analyzing all the computerized information accumulated from the reports requirements was transferred from our office to the Customs Service.

There is now a reports analysis branch in the Customs Service consisting of 12 people.

The Bank Secrecy Act is being used very heavily these days by both Customs and IRS, and I must say from a Treasury perspective, IRS is heavily involved not only in the Bank Secrecy Act as it

relates to drug trafficking and other areas, but heavily involved in supporting DEA.

Mr. GILMAN. Are you trying to implement some of the recommendations that the GAO suggested?

Mr. POWIS. We certainly are.

Mr. GILMAN. Allocating more manpower in this area and trying to improve the quality of the data and making it more available?

Mr. POWIS. We certainly are doing that.

Mr. GILMAN. I would like to ask the IRS representative, you raise some concern about not being able to use 6(e) for prosecution purposes?

Mr. COATES. For civil purposes.

Mr. GILMAN. Why can't you use it for criminal purposes?

Mr. COATES. We go into a grand jury investigative project, and the information that is gathered is used for criminal purposes.

The problem is with the information that is gathered by our agents and agents of DEA and Customs participating in that grand jury. We cannot use the grand jury information for civil purposes without a rule 6(e) order, for assessing a tax.

Mr. GILMAN. I don't understand the obstacle. You have a tool, you are in a criminal proceeding, why can't you use it for a criminal prosecution?

Mr. COATES. We have no problem in the criminal area. It works well for criminal investigations. Our problem is that the information that is developed in the grand jury is not available civilly to the IRS to assess or develop a tax deficiency without a rule 6(e) order.

Mr. GILMAN. You can't develop a tax deficiency with a criminal proceeding?

Mr. COATES. We would have to do it independent of that grand jury proceeding. Grand jury information, absent a 6(e) order by the district judge, cannot be used in developing a civil case.

Mr. GILMAN. Isn't there sufficient evidence to get a criminal prosecution of it?

Mr. COATES. Yes, sir; it works well in the criminal area.

Mr. GILMAN. Why do you need a jeopardy assessment on top of it?

Mr. COATES. Notwithstanding a criminal conviction, we would still like to determine a trafficker's tax liability and collect the tax due.

Mr. GILMAN. What about the RICO prosecution?

You are in a criminal prosecution. Can't you use the RICO statute to pursue his assets?

Mr. COATES. Mr. Chairman, the racketeer influenced and corrupt organization [RICO] statute was passed by the Congress under the Organized Crime Control Act in October 1970. The purpose of the act was to curtail the infiltration of organized crime and racketeering into legitimate organizations operating in interstate commerce. Under the statute, there is a property seizure provision which provides for the forfeiture of the proceeds of illegal activity, including narcotics trafficking.

The IRS' primary investigative responsibility relates to tax offenses and related violations committed in contravention of the tax statutes. The IRS, as in "Operation Greenback," also pursues se-

lected title 31, Bank Secrecy Act violations. The RICO statutes have not been determined to be violations of the tax laws. However, when the Service participates in a grand jury investigation, the evidence gathered for a tax case may be used by the Government attorney to support a RICO charge. Also, on rare occasions, our agents can complete a RICO investigation at the request of the U.S. attorney. This would occur when the tax case cannot be proven, but due to other evidence our agents can continue the RICO investigation in accordance with the IRS/DOJ strike force agreement. As an alternate to the RICO forfeiture provisions, the IRS has the authority under jeopardy and termination of tax years to assess and collect the tax due from those engaged in illegal activities, including narcotics trafficking.

Mr. GILMAN. What about for a criminal liability?

Mr. COATES. As I indicated, the Service when assisting a grand jury, may become involved in a RICO investigation.

Mr. GILMAN. You are not prevented from pursuing him under RICO?

Mr. COATES. No, sir.

Mr. GILMAN. Why don't you pursue him under RICO?

Mr. COATES. We do, in those situations I described, generally where a grand jury proceeding evolves into a RICO investigation.

Mr. GILMAN. You seemed to imply that you couldn't use RICO.

It seems RICO is available in criminal penalties, and you can use it.

Mr. HARRIS. You are right. There are criminal forfeiture provisions of the RICO statute.

Mr. GILMAN. Why does he need 6 (e) for civil violations?

Mr. HARRIS. If the narcotics prosecution fits all the elements of the RICO statutes, we can separate the drug dealer from his assets via the RICO prosecution. However, if it is title 21, distribution or possession with intent to distribute narcotics prosecution, and IRS would like to go in and civilly assess the taxes due and owing, they will be prohibited from using anything that was developed during the course of the grand jury proceeding as evidence in their civil tax case.

They will have to make believe that evidence does not exist, unless they get an order from a district judge saying that they can, and in this circuit, the law of the circuit is that that is an inappropriate basis for an order, and it will not be granted.

Mr. GILMAN. They can pursue all of his assets?

Mr. HARRIS. If they can develop independent evidence, not using anything that was developed in the grand jury, not using the grand jury for leads, if they independently can develop evidence, yes, they can go after his assets.

Mr. GILMAN. Where is that prohibition in the RICO statute?

Mr. HARRIS. Mr. Gilman, it isn't. If the original prosecution is under RICO, there is no problem, you are right. We are suggesting not all narcotics cases are prosecuted under RICO.

Some of them are prosecuted under title 21.

In those cases, the only way to separate the person from his assets is via a civil proceeding, and in that civil proceeding, the evidence developed in the grand jury cannot be used.

Mr. GILMAN. You can if it is a criminal proceeding?

Mr. HARRIS. Correct.

Mr. GILMAN. How many RICO prosecutions have there been in this region?

Mr. HARRIS. I don't have the answer. I can get the answer.

Mr. GILMAN. Federal, have there been any?

Mr. HARRIS. I am sure there have. There are many more which are not under the RICO statutes.

Mr. GILMAN. Pardon?

Mr. HARRIS. The majority of narcotics prosecutions are not under the RICO statute or the continuing criminal enterprise.

Mr. GILMAN. That is not because there is some restriction under the law, but because you prefer to pursue them or not pursue them, is that correct?

Mr. HARRIS. That often is because the evidence will not justify a RICO prosecution.

Mr. GILMAN. It is not a matter of not falling under the law. It is a matter that you don't have sufficient evidence, is that right?

Mr. HARRIS. Well, sir, as a general rule you analyze the evidence you have, and you see if it satisfies the elements of the statute. If in fact you have some question about whether you can satisfy RICO but you are pretty clear that you can send someone away for 15 years under the possession with intent to distribute, most prosecutors will proceed under the possession with intent to distribute statute.

Mr. GILMAN. One more question of Mr. Coates.

We are talking about a $60- to $70-billion business nationwide, and those are conservative estimates, and in your report you talk about recovering some $80 million in taxes. About 250-some staff-years, that has now been increased to 500 staff-years.

How many people does that entail that are involved trying to collect the taxes on this $60- to $70-billion business?

Mr. COATES. What I was speaking of in terms of the staff-years, Mr. Gilman, were the number of special agent staff-years.

Mr. GILMAN. How many years are you talking about?

Mr. COATES. We have roughly in our criminal investigation division 2,800.

Mr. GILMAN. I know how many.

Mr. COATES. Twenty percent of their time is devoted to narcotic trafficking criminal tax cases. In the State of Florida, 50 percent, but nationwide about 20 percent of our criminal investigators are spending their time in the narcotic trafficking program.

Mr. GILMAN. About one-fifth of your 2,800?

Mr. COATES. Twenty percent; yes, sir.

Mr. GILMAN. Mr. Coates, if I might interrupt, that is about what, about 500 investigators' time who are working on a $60- to $70-billion business, and how many of these fellows are working on the small businessman where you bring in $2,000 or $3,000 at the end of a 2- or 3-year investigation?

I am wondering where our priorities are.

Mr. COATES. We don't have any of our special agents working on that size case, Mr. Gilman. About half of our special agents are spent, as I said, on the general program, all the taxpayers who are evading taxes from legal means.

The illegal side, about one-half of our special agents are spending their time on the illegal side, whether it be narcotics traffickers, organized crime or loan-sharking or whatever it may be.

Twenty percent of the total is specifically spent in narcotics, 50 percent in the organized crime or illegal side.

Mr. GILMAN. We are apparently not making much of a dent on that $60- to $70-billion business, would you concede that?

Mr. COATES. Compared to what we assessed last year, no, sir.

Mr. GILMAN. What do you need to try to do a better job?

Mr. COATES. More resources. A favorable resolution of the rule 6(e) order to permit the use of grand jury information to conduct civil examinations.

Mr. GILMAN. You have 2,800 special agents out there. It is a matter of your defining the priorities.

Mr. COATES. That is right, and we have greatly increased the number of our agents that are spending time on the illegal side, and specifically in the narcotics side.

Mr. GILMAN. What other resources? Do you have the personnel?

Mr. COATES. At this time I would say that personnel would be our principal need, and the need to pursue a balanced enforcement program.

Mr. GILMAN. Shift around some of the responsibility?

Mr. COATES. Yes, sir, and we have, and we will continue to shift it as the need for shifting arises.

These financial investigative task forces, like "Operation Greenback" here in Florida, we are entering into the same type operations around the country, in the Midwest and the West, and so we are devoting more and more of our resources to that area.

Mr. ZEFERETTI. Mr. Hutto.

Mr. HUTTO. Each of you gentlemen has made excellent statements here.

The problem I see from what you have said, from what Attorney General Jim Smith has said, it appears to me in the war on narcotics, we have met the enemy, and he is the U.S. Code. I have never seen such a maze of laws and hangups that is really inhibiting our investigation and our attack on the problem of narcotics.

What is appalling to me is that we have allowed this to happen, and I, Mr. Harris, I certainly agree with you, that we need to coordinate and do something about it.

Why weren't we doing more? Has the Justice Department brought forth to the Congress proposals to eliminate all these bottlenecks?

Mr. HARRIS. Some are already before the Congress. Others are on their way there but we, in the next month or so you will have them all.

Justice Department, as far as I know, opposed a number of these when they went in and pointed out the problems, and we have had some experience now and we are now in a different era, a different time. A number of the problems are far more severe and the Congress is looking at it again and we will provide recommendations in each of these areas.

Mr. HUTTO. It is incomprehensible to me, though, that foreigners can get information under the Freedom of Information Act. I don't think most Members of Congress are aware of the need to do so,

and if it is brought to our attention and pursued, we will be able to come up with some answers to that.

Mr. Coates, is not title 31 a more effective type weapon against drug traffickers as much as it can move swiftly against a drug trafficker's assets?

Mr. COATES. As compared to title 26, an income tax case, the title 31 would be a quicker case to make than an intricate financial investigation that would develop a title 26 income tax prosecution case. However, as indicated in my opening statement, there are problems when the service considers initiating termination and jeopardy assessments in relation to currency on deposit in banks.

We are in a project here in Florida. It is primarily a title 31 type investigation and the cases that are being made primarily title 31 and title 18 conspiracy cases.

Mr. HUTTO. Is this being utilized as a vehicle in going against the assets to the fullest extent?

Mr. COATES. Yes, sir, where we can show that currency on deposit in a bank is the property of a narcotics trafficker, we can initiate termination and jeopardy procedures.

Mr. HUTTO. A recent GAO report in April of this year criticized the IRS for failing to streamline its criminal prosecution when investigators identify major drug violators.

Is it necessary for criminal title 26 violations to go through these very complicated channels?

Mr. COATES. The actual investigation of a drug trafficker for tax violations, where the activity involves cash transactions with no financial paper trails to pursue, is a time consuming process. However, the Service agrees with the GAO that the review process, once the investigation has been completed and a criminal prosecution has been recommended, needs to be streamlined. Chief counsel for IRS and the Justice Department's Tax Division have been working to streamline this review process and are exploring new avenues to expedite the review of criminal tax bases.

Mr. HUTTO. Mr. Harris, over the last several months, the staff of this committee has spent many hours with the staff of "Operation Greenback." One problem that is quite evident is that the Justice Department has not committed the flow of resources required to make a "Greenback" program more effective.

This operation is doing an effective job from all I can hear. All the agencies point to it as a model of financial investigation, and yet it lacks attorneys to prosecute cases and a backlog is developing now.

It lacks a law library; but is attempting to develop new legal theories. It lacks adequate space and even the U.S. Attorney's Manual.

What does the Justice Department plan to do to correct these serious deficiencies?

Mr. HARRIS. We have just reassigned six U.S. attorney positions to the southern district of Florida, a portion of which is to be used to support "Operation Greenback", so we are taking steps to increase the effort.

We have lost through attrition some people that had been working on it, and we are seeking to correct that situation right now.

Mr. HUTTO. In the interest of time, I will forego any further questions.

Mr. ZEFERETTI. Thank you very much.

I want to thank you gentlemen very, very much for your contribution.

One last thing, maybe through all of this, perhaps we should examine legislative language dealing with drugs as a separate entity from the problems which are faced with IRS, the Freedom of Information Act, and other cases. What do you think, Mr. Harris?

Mr. HARRIS. It is something to explore. It has certain advantages in the Freedom of Information Act. I can understand why Americans might be a little skeptical about wanting to know what the FBI has, because they investigate a wide range of crimes.

Narcotics violations, what public need is there to have a convicted narcotics dealer spending his time in prison querying the Feds about himself, his activities, and who turned him in? It would be better for the American people if a lot of these exceptions were limited to narcotics.

We are sitting here in 1981 talking about narcotics, and maybe in 1985 we would be saying we should have applied this to who knows what.

That is the other side of it, Mr. Chairman.

Mr. ZEFERETTI. I thank you very much, and I would hope that you would submit whatever answers to some written questions we may want to ask you along the way.

Thank you very much.

[Brief recess.]

Mr. ZEFERETTI. I would like to call Mr. Vernon Meyer, Mr. Joseph Corless, and Mr. William Rosenblatt.

Mr. Rosenblatt is the Regional Director of Investigations, Miami Region; Mr. Corless, Special Agent in Charge, Miami Field Office, Federal Bureau of Investigation.

Mr. Meyer is from the DEA, Southeast Regional Director.

Gentlemen, welcome. We have your statements. They will be made part of the record. You may summarize in any fashion you would like.

Mr. Rosenblatt.

TESTIMONY OF WILLIAM P. ROSENBLATT, REGIONAL DIRECTOR OF INVESTIGATIONS, MIAMI, FLA., U.S. CUSTOMS SERVICE

Mr. ROSENBLATT. The Commissioner of Customs, William Van Raab, expresses his regrets that he is unable to address this committee in person today, due to other commitments.

He has asked me to take his place and represent the U.S. Customs Service before the House Select Committee on Narcotics Abuse and Control.

I am William P. Rosenblatt, Customs Regional Director of Investigations in the Miami region.

The ability of escalating criminal empires to launder their money through secret offshore banks and return their illicit funds to infiltrate legitimate business or expand their criminal horizons is legendary.

The Bank Secrecy Act was designed to create an audit trail where none had existed and provide Federal investigators a useful system of records to combat organized crime and narcotic traffickers.

Of course, there had to be provisions for the inevitable failures by criminals to abide by the reporting provisions of the act. The regulations which implemented this act delegated the responsibility for enforcement of key sections to the Commissioner of Customs. Those sections deal with the required reports for the international transportation of currency and bearer instruments in excess of $5,000. Intentional failure to file the required report is a misdemeanor; however, if these omissions are in furtherance of another Federal crime or pattern of illegal activity; then the omission is itself a substantive Federal felony punishable by up to 5 years in the penitentiary and/or a criminal fine of $500,000.

It may be hard to visualize the significance of this act until it is seen that the narcotics business in the United States exceeds $60 billion a year. Almost all of those narcotics are foreign sourced.

Customs special agents have had experience in many types of financial investigations, particularly the commercial operations of importers. Currency reporting investigations were enthusiastically received by agents despite reorganizations, court challenges, and conflicting priorities.

By 1976, these obstacles had been overcome and financial investigations of Bank Secrecy Act violations had come to the forefront. The investigative hours spent by Customs agents on currency cases for the past 3 years is as follows: fiscal year 1979, 111,032 agent hours [44 M/Y]; fiscal year 1980, 168,220 agent hours [67 M/Y], and fiscal year 1981, 376,320 agent hours [150 M/Y].

Felony arrests and seizures follow the same pattern of growth.

Currency reporting is not only the top investigative and enforcement priority in the Customs Service, but it is the primary priority in servicewide training and public awareness programs as well.

During the early stages of our Bank Secrecy Act financial investigations evolution, we were heavily dependent on pursuing targets of opportunity.

Our San Diego field office first suggested, in a 1976 investigation, that it may be possible to use the financial reports to target criminal groups through patterns of suspect activity. This case netted felony convictions of 12 individuals who formed the nucleus of a major California heroin and cocaine drug smuggling ring.

Financial investigation showed that in 18 months the organization transported in excess of $32 million from the United States to Mexico. Currency, real estate, and other derivative assets resulted in the forfeiture of over $2 million, a major criminal organization was disrupted, and criminal fines total multimillions.

Repeated successes provided the impetus for the Treasury-initiated "Operation Greenback."

In the late 1970's, the Federal Reserve System noted that the Florida Federal Reserve branches at Jacksonville and Miami were experiencing untypical inflows of surplus currency. The Miami office of the Federal Reserve takes in almost five times as much currency as it pays out.

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Under the guidance of the Treasury Department, Customs analysts studied the reports filed by banks and individuals under the Bank Secrecy Act and compared that information with the intelligence on known and suspected drug dealers and couriers.

That analysis produced eight studies identifying five organizations operating in Florida, with patterns of financial activity which strongly suggested criminal activity in the hundreds-of-millions-dollar range.

The analysis also identified the financial kingpins and clearly delineated the organizational structures. You are all familiar with conventional narcotic enforcement which starts with undercover sales and attempts to work up the pyramid. The hierarchy is unfortunately well insulated from the illicit transactions they direct.

The analysis and investigative methodology I describe is a new enforcement approach to which the criminal organizations have not yet evolved an immunity; indeed, it may always remain a vulnerable area because an organization's leader will always be close to the organization's wealth.

Targeting the groups identified through analysis, Treasury, in January 1980, initiated the formation of a multiagency task force named "Operation Greenback" to focus on the proceeds rather than the commodity. Customs responded by transferring additional agents and resources to Miami.

The Criminal Investigations Division of IRS also committed agents to the project. The Department of Justice responded by assigning special prosecutors to "Operation Greenback." "Greenback's" multiagency approach has proven extremely effective in combating large-scale money laundering operations. IRS-CID has investigative jurisdiction for omissions in reporting domestic income and also has been investigating institutional reporting of domestic transactions.

Customs has jurisdiction over international transportations, provides analytical support, and maintains the financial information data base. The DEA and FBI have jurisdiction over various other violations which generate these illicit fortunes.

One group was recently targeted by "Greenback" because of suspect financial transactions which came to light through the financial reports. After identifying the organization, "Greenback" was successful in placing an undercover Customs agent in the office building utilized by this group.

A special agency on surveillance in the lobby of the building was summoned by the suspects to assist a courier in unloading cash stuffed in boxes from a luxury car. The agent was also asked to assist in counting over $2 million in small bills. A seizure was later effected and a total of $3.7 million in small bills was found in a variety of cardboard boxes and other containers.

A narcotic detector dog alerted on several of the boxes and subsequent search warrants netted an additional $5.3 million in Miami. A civil penalty was issued by Treasury and an additional $453,000 in a New York account was attached.

Incredibly, this $9.5 million seizure, the largest in recent law enforcement history, was part of $19 million laundered by the organization over a 2-week period.

"Operation Greenback" has truly put the pressure on criminal organizations in Florida. One informant recently said that getting rid of the money has become the hardest part of the dope business.

Customs prominence in financial investigations was further bolstered by the transfer of the Reports Analysis Unit from Main Treasury to Customs in 1979.

This unit, which has now become the Reports Analysis Branch of our Currency Investigations Division, is the repository for all the financial reports required by the Bank Secrecy Act.

This branch serves the dual functions of making the information available to other Federal enforcement agencies and analyzing the data to detect patterns of possible criminality.

The Reports Analysis Branch is currently providing financial information for 19 Federal law enforcement agencies. Customs is constantly seeking to perfect the accuracy of the data we provide. We expect a more effective delivery system in the near future which will deliver this vital intelligence to Federal enforcement users in hours rather than days.

Analysis of the data base will continue to be the source of extracts for use by task forces in identifying criminal targets.

I find it is not difficult to speak of the future direction for Customs in financial investigations, that course was charted as early as 1975. The point of departure was then and still is the Bank Secrecy Act.

Both its reports and its sanctions are tools to build the financial cases that are most disruptive to the illegal corporations that have given new meaning to the term "organized crime."

The skepticism which characterized observers of our early effort is being gradually replaced by acceptance and even enthusiasm. To have said it first is not as important as assuring that the course charted for the future is as accurate as that which we have traveled.

"Operation Greenback" initially brought the prospective expertise of Justice and the financial investigative expertise of Treasury to bear on the problem. However, the "Greenback" approach was a fundamental precept of the Customs currency program even in the early years.

The thirst for currency cases led Customs agents to encourage the establishment of financial task forces in major narcotic distribution and financial centers. At least ten of which have benefited from the intelligence gleaned from Bank Secrecy Act reports furnished by the Reports Analysis Branch of Customs.

The initial success of "Operation Greenback" in south Florida is causing, according to reliable intelligence sources, criminal elements to shift their financially associated narcotic arrangements to other locations in the United States.

As a model, "Operation Greenback" only represents a beginning. Customs will continue to concentrate its investigative resources and encourage the formation of multiagency task forces in those areas of the country where criminal organizations decide to conduct the financial side of their nefarious and insidious criminal activity.

I thank the committee for this opportunity to speak and for its continued support in our efforts to combat the highest echelons of

the narcotics business through the use of the enforcement provisions of the Bank Secrecy Act.

[The prepared statement of Mr. Rosenblatt follows:]

PREPARED STATEMENT OF WILLIAM P. ROSENBLATT

The Commissioner of Customs expresses his regrets that he is unable to address this Committee in person today. He has asked me to take his place and represent Customs before the House Select Committee on Narcotics Abuse and Control. I am William P. Rosenblatt, Customs Regional Director of Investigations in the Miami Region.

The Bank Secrecy Act was passed in 1970. This Act was the legislative response to the escalating criminal empires, their ability to launder their money through secret offshore banks and return their illicit funds to infiltrate legitimate business or expand their criminal horizons. The Act was designed to create an audit trail where none had existed and provide Federal investigators a useful system of records to combat organized crime and narcotic traffickers. The required reports covered international transportations of cash or bearer negotiable instruments (over $5,000), cash transactions in domestic banks (over $10,000) and ownership of foreign bank accounts by United States residents.

Of course there had to be provisions for the inevitable failures by criminals to abide by the reporting provisions of the Act. The regulations which implemented this Act delegated the responsibility for enforcement of key sections to the Commissioner of Customs (31 CFR 103.46(a)(7)). Those sections dealt with the required reports for the international transportation of currency and certain instruments in excess of $5,000. Knowing omissions were a misdemeanor, however, if these omissions are in furtherance of another Federal crime, then the omission is itself a substantive Federal felony punishable by 5 years in the penitentiary and a criminal fine of $500,000. Customs was also delegated authority to seize unreported currency which is subject to forfeiture.

It may be hard to visualize the significance of this Act until it is seen that the narcotics business in the United States exceeds $60 billion a year. Almost all of those narcotics are foreign sourced. Additionally much of this money as well as the profits from other criminal enterprises are laundered through the clandestine banks operating in the Caribbean.

Customs prominence in financial investigations was further bolstered by the transfer of the Reports Analysis Unit from Main Treasury to Customs in 1979. This unit, which has now become the Reports Analysis Branch of our Currency Investigations Division, is the repository for all the financial reports required by the Bank Secrecy Act. This Branch serves the dual functions of making the information available to other Federal enforcement agencies and analyzing the data to detect patterns of possible criminality.

Customs special agents have had experience in many types of financial investigations, particularly the commercial operations of importers. Currency reporting investigations were enthusiastically received by agents despite reorganizations, court challenges, and conflicting priorities. By 1976 these obstacles had been overcome and financial investigations of Bank Secrecy Act violations has come to the forefront. The investigative hours spend on currency cases for the past 3 years is as follows: fiscal year 1979—111,032 agent hours; fiscal year 1980—168,220 agent hours; and fiscal year 1981—376,320 agent hours. Felony arrests and seizures follow the same pattern of growth.

This awareness is not limited to agents. The increased emphasis of currency reporting enforcement is now a major issue with the Customs patrol and inspection functions. Currency reporting is not only the top investigative and enforcement priority but it is the primary priority in servicewide training and public awareness programs as well.

During the early stages of our Bank Secrecy Act financial investigations evolution we were heavily dependent on pursuing targets of opportunity, those cases where we were advised of currency seizures by inspectors or learned of financial aspects attached to other investigations. Our San Diego field office first suggested, in a 1976 investigation, that it may be possible to use the financial reports to target criminal groups through patterns of suspect activity. This case netted felony convictions of 12 individuals who formed the nucleus of a major California heroin and cocaine drug smuggling ring. Financial investigation showed that in 18 months the organization transported in excess of $32 million from the U.S. to Mexico. Currency, real estate and other derivative assets resulted in the forfeiture of over $2 million, a major criminal organization was disrupted, and criminal fines total multimillions.

Repeated successes provided the impetus for the Treasury directed "operation greenback." In the mid 1970's, the Federal Reserve System noted that the Florida Federal Reserve Branches at Jacksonville and Miami, were experiencing untypical inflows of surplus currency. The Miami office of the Federal Reserve takes in almost five times as much currency as it pays out.

The effect of the unusual patterns are not noted by Government economists alone. Businessmen in Florida are confronted daily with suspected narcotic dealers purchasing items with cash. Cash payments for luxury cars, yachts, and even homes are no longer unusual in parts of Florida. Drug dealers seeking to launder their money can outbid legitimate consumers for goods and services.

Under the guidance of the Treasury Department, Customs analysts studied the reports filed by banks and individuals under the Bank Secrecy Act and compared that information with the intelligence on known and suspected drug dealers and couriers. That analysis produced eight studies identifying five organizations operating in Florida, with patterns of financial activity which strongly suggested criminal activity in the hundreds of million dollar range. The analysis also identified the financial kingpins and clearly delineated the organizational structures. You are all familiar with conventional narcotic enforcement which starts with small undercover sales and attempts to work up the pyramid. The hierarchy is unfortunately well insulated from the illicit transactions they direct. The analysis I describe is a new enforcement approach to which the criminal organizations have not yet evolved an immunity; indeed it may always remain a vulnerable area because an organization's leader will always be close to the organization's wealth.

Targeting the groups identified through analysis, Treasury, in January 1980, initiated the formation of a multiagency task force named "operation greenback" to focus the proceeds rather than the commodity. Customs responded by transferring additional agents and resources to Miami. The Criminal Investigations Division of IRS also committed agents to the project. The Department of Justice responded by assigning special prosecutors to "operation greenback."

Greenback's multiagency approach has proven extremely effective in combatting large-scale money laundering operations. IRS-CID has investigative jurisdiction for omissions in reporting domestic income and also has been investigating institutional reporting of domestic transactions. Customs has jurisdiction over international transportations, provides analytical support, and maintains the financial information data base. Other Federal agencies have jurisdiction over various other violations which generate these illicit fortunes.

One group was recently targeted by Greenback because of suspect financial transactions which came to light through the financial reports. After identifying the organization, Greenback was successful in placing an undercover Customs agent in the office building utilized by this group. A special agent on surveillance in the lobby of the building was summoned by the suspects to assist a courier in unloading cash stuffed in boxes from a luxury car. The agent was also asked to assist in counting over $2 million in small bills. A seizure was later effected and a total of $3.7 million in small bills was found in a variety of cardboard boxes and other containers. A narcotic detector dog alerted on several of the boxes and subsequent search warrants netted an additional $5.3 million in Miami. A civil penalty was issued by Treasury and an additional $453,000 in a New York account was attached. Incredibly, this $9.5 million seizure, the largest in recent law enforcement history, was part of $19 million laundered by the organization over a 2-week period.

Operation Greenback has truly put the pressure on criminal organizations in Florida. One informant recently said that getting rid of the money has become the hardest part of the dope business. In one Florida bank, it was discovered that three bank employees were being paid a commission of $3,000 a day to launder an organization's illicit funds which totalled $400,000 a day. Those employees faithfully filled out the required form but shredded the Government's copy. This is a desperation act on the part of crime and a measure of the effectiveness of the law and the way it is applied by Customs in multiagency task forces like Operation Greenback. As of August 30, 1981, Operation Greenback has seized in excess of $19 million in U.S. currency, indicted 43 key criminal figures and issued penalties in excess of $10 million.

I find it is not difficult to speak of the future direction for Customs in financial investigations, that course was chartered as early as 1975. The point of departure was then and still is the Bank Secrecy Act. Both its reports and its sanctions are tools to build the financial cases that are most disruptive to the illegal "corporations" that have given new meaning to the term organized crime. The skepticism which characterized observers of our early efforts is being gradually replaced by acceptance and even enthusiasm. To have said it first is not as important as assuring that the course chartered for the future, is as accurate as that which we

have traveled. Operation Greenback initially brought the prospective expertise of Justice and the financial investigative expertise of Treasury to bear on the problem. However, the Greenback approach was a fundamental precept of the Customs currency program even in the early years. The thirst for currency cases led Customs agents to encourage the establishment of financial task forces in major narcotic distribution and financial centers. At least 10 of which have benefited from the intelligence gleaned from Bank Secrecy Act reports furnished by the Reports Analysis Branch of Customs.

The Reports Analysis Branch is currently providing financial information for 19 Federal law enforcement agencies. This year the dollar amount of those disseminations has doubled last year's figures. Customs is constantly seeking to perfect the accuracy of the data we provide. We expect a more effective delivery system in the near future which will deliver this vital intelligence to our Federal enforcement users in hours rather than days. Analysis of the data base will continue to be the source of extracts for use by task forces in identifying criminal targets. New techniques including the identification of stolen passport numbers and false social security numbers in the records promise to prove effective in identifying previously unknown criminal operations.

I thank the Committee for this opportunity to speak and for its continued support in our efforts to combat the highest echelons of the narcotics business through the use of the enforcement provisions of the Bank Secrecy Act.

Mr. ZEFERETTI. Mr. Corless.

TESTIMONY OF JOSEPH V. CORLESS, SPECIAL AGENT IN CHARGE, MIAMI DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. CORLESS. Mr. Chairman, Congressmen, on behalf of the Director of the FBI, I appreciate the opportunity you have provided for me to testify. Perhaps no other area of law enforcement calls for cooperative effort more than the fight against drug trafficking and abuse.

Illicit products come into this country in incredible quantities, overwhelming the resources currently committed to their interdiction, feeding the giant profits of criminal networks and enterprises, generating corruption, violence, and tragedy.

The principal components of the Federal effort must be the DEA, the FBI, and Customs. We are hard at work to maximize cooperation. Throughout these efforts, the theme has been: "How can we do it better together?"

In the evolution of a joint strategy, there are now, nationwide, some 60 operations in which DEA agents and FBI agents are working together in important investigations.

Just a few weeks ago, working with DEA, we arrested over three dozen men and women engaged in massive drug trafficking between Colombia and Florida. We seized, with the help of IRS, $7 million in cash, $11 million in bank accounts, 5 airplanes, 20 automobiles, and a 4,800-acre ranch all in 1 day.

We called the case Bancoshares, and it involved a long-term undercover operation in which we acted undercover as the brokers to launder money before it went into a bank. We laundered about $170 million in a very short period of time. I don't think the American people fully realizes what a big business we are talking about.

In your invitation to testify, you indicated that your committee wanted to focus on amendments to the law which would result in more effective financial investigations and prosecutions.

The administration is in the process of drafting specific proposals which we believe, if enacted, would significantly assist in this

regard. I would like to comment on two areas of the law that directly affect the FBI's financial investigations.

The disclosure provisions of the Tax Reform Act of 1976 found in section 6103 of the Internal Revenue Code of 1954 (26 U.S.C. 6103) were intended to avoid future abuses of a "Watergate" nature.

Various congressional committees determined that the White House has used tax returns to pressure potential campaign contributors and certain other individuals who were on an "enemies list."

It was also revealed that an IRS special service staff disseminated information about individuals and groups on the basis of their "extremist views and philosophies." In short, Congress determined that information collected by the IRS was misused.

To cure these abuses the Tax Reform Act made tax returns and most other information gathered by the IRS confidential and subject to disclosure only in accordance with very strict procedures.

These procedures apply across the board and govern disclosure to all Federal agencies despite the fact that there was no documented abuse of tax information disclosed for the purpose of Federal prosecution of criminal violations.

Specifically, the law creates four major problems with regard to FBI operations:

One, the IRS is virtually unable to advise us of the cases on which it is working with the result that there is duplication of effort.

Two, it is unduly difficult—at times impossible—and time-consuming to obtain IRS information which would materially assist in the development of important cases.

Three, the statute makes it difficult—and extremely hazardous in terms of both civil and criminal liability to the IRS personnel involved—for IRS to provide us even with evidence developed based on sources independent of tax returns.

Four, in those few circumstances where our agents are permitted to work with IRS personnel—that is, joint Federal grand juries—the delays caused by the intricate and cumbersome mechanisms of the act often stall investigations interminably.

The second area I would like to address is the right to Financial Privacy Act. This complex privacy measure governs Federal access to most financial records held by banking institutions and credit card issuers.

Although Congress sought to protect legitimate privacy interests the act is most notable for its overlapping—and in several respects, redundant—restrictions upon law enforcement officials.

The act requires (1) documentation of access to protected financial records; (2) certification of compliance with the procedures of the act; (3) either advance notice to the customer and standing to challenge Government access or an ex parte court order delaying notice for good cause; (4) civil, injunctive, and administrative disciplinary remedies for any violation of the act, (5) annual reporting to the Congress of all instances of access to protected records, (6) reimbursement of record custodians for search and reproduction costs—to discourage "fishing expeditions", and (7) a series of restrictions upon transfers of records to other Federal agencies which vary depending upon how the records were initially obtained.

Not surprisingly, the byproducts of these overlapping safeguards include greatly expanded paperwork, increases litigation and delay.

None of these safeguards is more troubling than the notice-challenge provisions. Generally under the act, Federal law enforcement must notify the customer to whom the records relate, of its intention to gain access to those records and its purpose in doing so.

The customer may then challenge the Government's access to the records by alleging that they are not relevant to a legitimate law enforcement inquiry or there has not been substantial compliance with act, thus causing a substantial delay in the investigation.

This delay will occur even if the customer does not show up in court to argue his position. There is no constitutional ground on which to base a challenge since the Supreme Court has clearly stated in *U.S.* v. *Miller* that "the fourth amendment does not prohibit the obtaining of information revealed to a third party and conveyed by him to Government authorities, even if the information is revealed on the assumption that it will be used only for a limited purpose and the confidence in the third party will not be betrayed."

It is our position that the documentation requirements of the act coupled with the civil penalties provision provides substantial protection from abuse and ample remedy should it occur.

The notice-challenge provisions serve only to delay investigations and increase the likelihood of premature, detailed notice to criminal suspects that they are under investigation.

Thank you. I will try to answer any questions you may have.

Mr. ZEFERETTI. Thank you. Mr. Meyer.

TESTIMONY OF VERNON D. MEYER, SOUTHEAST REGIONAL DIRECTOR, DRUG ENFORCEMENT ADMINISTRATION

Mr. MEYER. Chairman Zeferetti, distinguished members of the House Select Committee on Narcotics, it is indeed a privilege for me to appear here today representing the Drug Enforcement Administration.

I would like to summarize and highlight my statement which has been submitted, to highlight particularly the Drug Enforcement Administration's response to the financial implications of the drug traffic.

Although my statement does deal with the magnitude and dimensions and implications of the drug traffic, I will forego much discussion other than to say that I am certainly aware that the committee is aware of the monumental proportions of the drug traffic in south Florida and throughout the State, for that matter. That certainly commands your presence here.

What we are experiencing has been very adequately described by previous witnesses. I would only add, I reinforce that from my perspective, I think we are experiencing a condition that relates to drug activity that is nearing emergency proportions.

The Select Committee's focus at this hearing on the financial implications of drug trafficking is a critical issue worthy of close scrutiny. It is DEA's responsibility to immobilize upper echelon narcotics traffickers and to bring them to justice, and the removal of assets from drug trafficking organizations is an integral compo-

nent of our three dimensional approach to realize this primary objective.

One, we seek to remove the drugs from the marketplace; two, we seek to have the drug traffickers incarcerated; three, we seek to have the assets of the organizations seized and forfeited to the Government.

DEA is certainly not alone in pursuing financial aspects of criminal violations, and the cooperation and expertise of the entire Federal enforcement complex are required to reach the traffickers, their drugs and their assets.

I would like to stress to the committee that in order for DEA to become involved in a financial investigation, there must first be a nexus to a drug law violation. There is statutory authority related to drug law violation which affords DEA the opportunity to identify assets liable for both criminal and civil forfeiture.

From our perspective of pursuing cases of drug-related violations of law, financial investigation is a tool, a technique. Within DEA we consider a financial investigation to be the process of identifying through drug investigations, financial information or evidence which will result in the prosecution of drug violators as well as the identification and seizure of illicit profits and/or assets.

There is a clear standing policy directive to all DEA field offices to identify the financial aspects of their investigations. All class I and II cases must be examined with an eye toward exploiting the financial aspects of the investigation.

Because I am most familiar with the DEA southeastern region's drug asset removal program, I shall address the balance of my remarks specifically to this one region's approach.

However, please bear in mind that the southeastern region's financial operations embody the primary characteristics of DEA financial programs in the other regions, and that the approaches and programs like the ones I will be describing are also being actively pursued nationwide.

The deputy regional director is responsible for monitoring the overall regional effort in the drug asset removal program and for reporting to headquarters the levels of enforcement activity.

Further, the special agents in charge of the district offices are accountable for establishing a drug asset removal coordination unit within their offices to assure that the drug asset removal approach is exploited to the fullest extent.

At a minimum, this unit is responsible for reviewing all class I and II cases for asset removal potential and for coordinating and supporting any ad hoc multiagency enforcement efforts.

In the DEA Miami District Office, a financial coordination unit has been established with the district intelligence group. This unit serves as the central point of coordination for intelligence and operational activities related to the identification and tracking of financial assets of illicit drug trafficking organizations.

Their secondary objective is to gather intelligence on the financial assets of narcotics trafficking groups.

Several approaches are used to achieve these primary and secondary goals. Specifically, financial intelligence is collected and disseminated to expand ongoing conspiracy investigations through analysis and documentation of fiscal transactions.

Additionally, intelligence is exchanged with IRS with the goal in mind of joint prosecution of both narcotic and tax statutes.

Similarly, intelligence is exchanged with the U.S. Customs Service with the aim of prosecuting violations of both narcotics and currency transport statutes. In addition, there has been increased emphasis placed on joint investigations with the FBI.

Mr. Corless just mentioned that the number of joint investigations has increased dramatically over the past several months, and there are all indications that that escalation of mutual effort will continue.

Another approach embraces the continuation of earlier enforcement programs through the input and query process of the Regional Automated Intelligence Data System [RAIDS] to identify possible targets for investigation.

Financial intelligence is also disseminated to other DEA elements to promote the utilization of the civil forfeiture provision.

Information of this type is also forwarded to DEA elements so that, where appropriate, the various strike forces can seize assets under the RICO statute.

The unit also exchanges financial intelligence with the Securities and Exchange Commission so that again, where appropriate, the SEC can take action against narcotics-related corporate assets controlled by traffickers.

Financial intelligence is also made available to foreign governments through DEA offices overseas, the ultimate goal being the seizure and ultimate forfeiture of narcotics-derived assets, and prosecution of those drug trafficking organizations under any of the particular country's existing statutes.

The Miami District Office Financial Coordination Unit is DEA's liaison between the Department of Treasury's Cash Flow Project ["Operation Greenback"] and DEA enforcement elements of the Miami District Office.

In furtherance of this operation, the unit also maintains and updates existing records to include "Greenback" material into the RAID system. The financial coordination unit is the liaison point between IRS and DEA enforcement elements. They also work to maintain continuing relations between DEA, the Federal Reserve System, the U.S. Comptroller of the Currency and the Florida Comptroller's Office.

The unit provides analytical and research services for enforcement efforts on specific investigations involving continuing criminal enterprise or RICO violations. They also compile and analyze Miami District asset seizures on a monthly basis.

When there are developments or new information which affect criminal or civil seizure and forfeiture laws, the unit advises all District Office enforcement elements of the changes.

I would like at this point to reiterate DEA's major commitment to the targeting, seizing, and removal of drug-related assets.

We are firmly committed to closer coordination with the U.S. attorney offices and all other Federal agencies, as well as with State, local, and foreign governments to support a coordinated governmental effort against illicitly derived assets.

Since 1979, DEA has trained approximately 85 percent of its special agents in the financial aspects of drug investigations. As a

result of the training, an increased emphasis on financial investigations by DEA management between 1979 and 1980, the volume of trafficker assets seized in which DEA was involved increased from less than $14 million to over $94 million.

We estimate that this figure will reach $150 million in fiscal year 1981.

Through August of this year, we had reported as seized $135 million in trafficker assets.

Gentlemen, that concludes my summarization.

[The prepared statement of Mr. Meyer follows:]

PREPARED STATEMENT OF VERNON D. MEYER

Members of the Select Committee on Narcotics Abuse and Control: It is a privilege to be here today to represent the Drug Enforcement Administration at this hearing. In the past, the Select Committee has done an outstanding job of bringing national attention to bear on the full range of issues associated with the drug problem, particularly as it has affected Florida and the Southeastern region of the United States. The Select Committee's more narrow focus today on the financial implications of drug trafficking is a critical issue worthy of close scrutiny.

It is DEA's responsibility to immobilize upper-echelon narcotics traffickers and to bring them to justice, and the removal of assets from drug trafficking organizations is an integral component of our three-dimensional approach to realize this primary objective. We seek to remove the drugs from the marketplace; we seek to have the traffickers incarcerated; we seek to have the assets of the organization seized and forfeited to the government.

The range of witnesses here today, representing the Federal Bureau of Investigation, U.S. Customs Service, the Internal Revenue Service and the Florida Department of Law Enforcement, underscores the truly cooperative, interagency nature of financial investigations. Obviously, DEA is not alone in pursuing financial aspects of criminal violations. The cooperation and expertise of the entire enforcement element are required to reach the traffickers, their drugs, and their assets. Cooperative efforts enhance the government's ability to dismantle drug trafficking organizations.

Prior to describing DEA's drug-related financial investigations program in depth, for the benefit of the record, I would like to re-state the scope of the drug trafficking problem, particularly as it applies to the Southeastern quadrant of the United States.

Our intelligence and trend analysis indicates that there will be little or no change in cocaine, marihuana and methaqualone trafficking. Florida's geographic location, topography, tourist industry, and positions in international trade and finance assure this area's continued preeminent position in drug trafficking. DEA estimates that approximately 15,500 metric tons of marihuana and 40 metric tons of cocaine entered the United States in 1980. It has been further estimated that 75 percent of these illicit drugs entered through Florida and the surrounding environs. Cocaine is responsible for one third of all retail drug sales in the United States; marihuana accounts for just under one third. According to the National Narcotics Intelligence Consumers Committee, in 1979, the national total retail value for these two drugs alone was just under $50 billion. Because of Florida's role in the forefront of the wholesale to retail activity, the economic impact here is amplified. The dollar drain caused by drugs shipped through Florida alone is estimated to be in excess of $6 billion. The influx of easy drug dollars has driven the inflation rate up in south Florida, especially in the areas of real estate and automobiles.

I would like to stress to the Committee that in order for DEA to become involved in a financial investigation, there must first be a nexus to a drug law violation. There is statutory authority related to drug law violations which affords DEA the opportunity to identify assets liable for both criminal and civil forfeiture. From our perspective of pursuing cases of drug-related violations of law, financial investigation is a tool, a technique. Within DEA we consider a financial investigation to be the process of identifying through drug investigations, financial information/evidence which will result in the prosecution of drug violators, as well as the identification and seizure of illicit profits and/or assets."

There is a clear standing policy directive to all DEA field offices to identify the financial aspects of their investigations. All Class I and II cases must be examined with an eye toward exploiting the financial aspects of the investigation.

Because I am most familiar with the DEA Southeastern region's drug asset removal program, I shall address the balance of my remarks specifically to this one region's approach. However, please bear in mind that the Southeastern region's financial operations embody the primary characteristics of our financial programs in the other regions, and that the approaches and programs like the ones I will be describing are also being actively pursued nationwide.

The Deputy Regional Director is responsible for monitoring the overall regional effort in the drug asset removal program and for reporting to Headquarters the levels of enforcement activity. Further, the Special Agents in Charge of the District Offices are accountable for establishing a Drug Asset Removal Coordination Unit within their offices to assure that the drug asset removal approach is exploited to the fullest extent. At a minimum, this Unit is responsible for reviewing all Class I and II cases for asset removal potential and for coordinating and supporting any ad hoc multi-agency enforcement efforts.

In the DEA Miami District Office, a Financial Coordination Unit has been established within the District Intelligence Group. This Unit serves as the central point of coordination for intelligence and operational activities related to the identification and tracking of financial assets of illicit drug trafficking organizations. Their secondary objective is to gather intelligence on the financial assets of narcotics trafficking groups.

Several approaches are used to achieve these primary and secondary goals. Specifically, financial intelligence is collected and disseminated to expand ongoing conspiracy investigations through analysis and documentation of fiscal transactions. Additionally, intelligence is exchanged with IRS with the goal in mind of joint prosecution of both narcotic and tax statutes. Similarly, intelligence is exchanged with the U.S. Customs Service with the aim of prosecuting violations of both narcotics and currency transport statutes. In addition, there has been increased emphasis placed on joint investigations with the FBI. Since July of this year, the number of DEA/FBI cooperative investigations has increased dramatically.

Another approach embraces the continuation of earlier enforcement programs through the input and query process of the Regional Automated Intelligence Data System (RAIDS) to identify possible targets for investigation. Financial intelligence is also disseminated to other DEA elements to promote the utilization of the civil forfeiture provision. Information of this type is also forwarded to DEA elements so that, where appropriate, the various Strike Forces can seize assets under the RICO statute. The Unit also exchanges financial intelligence with the Securities and Exchange Commission so that again, where appropriate, the SEC can take action against narcotics-related corporate assets controlled by traffickers. Financial intelligence is also made available to foreign governments through DEA offices overseas, the ultimate goal being the seizure and ultimate forfeiture of narcotics-derived assets, and prosecution of those drug trafficking organizations under any of the particular country's existing statutes.

At the present time, the Miami District Office Financial Coordination Unit is staffed by one senior Special Agent and two Research Intelligence Specialists. The Unit is DEA's liaison between the Department of Treasury's Cash Flow Project (Operation Greenback) and DEA enforcement elements of the Miami District Office. In furtherance of this operation, the Unit also maintains and updates existing records to include Greenback material into the RAID System. Also, the Financial Coordination Unit, which will have an IRS agent assigned to it, is the liaison point between IRS and DEA enforcement elements. They also work to maintain continuing relations between DEA, the Federal Reserve System, the U.S. Comptroller of the Currency and the Florida Comptroller's Office.

The Unit provides analytical and research services for enforcement efforts on specific investigations involving Continuing Criminal Enterprise or RICO violations. They also compile and analyze Miami District asset seizures on a monthly basis. When there are developments or new information which affect criminal or civil seizure and forfeiture laws, the Unit advises all District Office enforcement elements of the changes.

Operation Greenback was initiated in Florida in early 1980 to address the multitude of problems associated with money flow as it relates to national and international criminal enterprises. The Operation's goals were: (1) to identify the unusual flow of currency in Miami; (2) to frustrate organized and white collar criminal elements' usage of legitimate national and international financial channels to transmit or launder illicit proceeds; (3) to attack and destroy criminal enterprises' financial base and disrupt their infrastructures; and (4) to return the area's economic stability to normal, legitimate patterns.

Consequently, the investigations were concerned with sophisticated money laundering schemes and very intricate legal theories of criminal activity patterns. The

targets of the project were the banking institutions, organizations and individuals involved in such activity. A blend of traditional and financial investigative techniques was used in conjunction with the domestic and foreign transaction provisions of the Bank Secrecy Act (Title 31 U.S. Code) and Titles 26, 21 and 18 of the Code. Enforcement responsibilities for these acts are within the jurisdictions of the various Federal law enforcement agencies. DEA was fully involved in the development, coordination and progress of the operation.

The Treasury Department has the Congressionally mandated responsibility for the Bank Secrecy Act, and so they directed the Operation. When Operation Greenback was first conceived, one DEA Agent was assigned to the project. This past July, a DEA group consisting of one supervisor and five Special Agents was assigned to Operation Greenback to provide DEA's narcotic financial investigative expertise.

The DEA agents selected in July 1981 to participate full time in Operation Greenback had previously worked closely with Greenback personnel. These agents, as well as personnel from other domestic and foreign DEA offices had initiated investigations that were the basis of the most significant successes of Greenback. A brief synopsis of these investigations would be helpful.

In April 1980, 300 kilograms of cocaine were seized at the Miami International Airport. An extensive post seizure conspiracy investigation was conducted by DEA. During this investigation DEA reports and intelligence were provided to Greenback. Acting on DEA-provided information and after a one-week surveillance, Greenback agents seized 1.6 million dollars in cash at a suburban Miami Airport. The individuals involved were preparing to depart the U.S. by private aircraft.

During August 1980, DEA seized 1.5 million dollars in cash at the Miami International Airport from a passenger departing the U.S. for Colombia. This investigation was turned over to Greenback for prosecution.

Possibly the most significant investigation to date began during January 1981. During the pre-arrest stage, DEA provided investigative reports to Greenback. The principal individual was subsequently arrested by DEA in possession of 20 kilograms of cocaine and $18,000 in U.S. currency. The following day DEA obtained search and seizure warrants for two banks, bank accounts and three residences. DEA invited Greenback agents to participate in the raids which they did. To date over 4.75 million dollars have been seized from U.S. and Swiss bank accounts, through bond forfeitures, court fines and vehicle seizures. Currently, legal preparations are underway to seize additional bank accounts in five other countries.

Gentlemen, before I respond to questions, I would like to take this opportunity to reiterate DEA's major commitment to the targeting, seizing and removal of drug-related assets. We are firmly committed to closer coordination with the U.S. Attorneys Offices and other Federal agencies, as well as with state, local and foreign governments to support a coordinated governmental effort against illicitly derived assets. Since 1979, DEA has trained approximately 85 percent of its Special Agents in the financial aspects of drug investigations. Consequently, as a result of the training and increased emphasis on financial investigations by DEA management, between 1979 and 1980, the volume of trafficker assets seized in which DEA was involved increased from less than $14 million to over $94 million. We estimate that this figure will reach $150 million in 1981.

It is essential that we remain vigilant in this approach if we are to truly immobilize the drug trafficking organizations. The historical and continuing support of this Committee is significant and we look forward to sharing with you the outcomes of our endeavors.

Mr. ZEFERETTI. Thank you very much.

How much of that money is going to be forfeited?

Mr. MEYER. It is really hard to tell. We are hoping a lot of it.

Mr. ZEFERETTI. Thank you for your instructional testimony.

Mr. Rosenblatt, did you hear Mr. Harris' statement awhile ago in which he referred to "Getting Customs back into the narcotic business"?

Mr. ROSENBLATT. Yes.

Mr. ZEFERETTI. Would you like to comment on that?

Mr. ROSENBLATT. I have not personally heard it before. If this is what is being decided by the administration, Customs would welcome getting back into the investigation of narcotics.

Mr. ZEFERETTI. We can't get you back in there if we cut you in half and you lose necessary manpower.

I am more interested, though, in finding out how you, how do you create that paper trail, and how do you share the information that you get out of that, and how do you work with the other agencies?

Mr. ROSENBLATT. You are talking about the Reports Analysis Unit at headquarters?

Mr. ZEFERETTI. Yes.

Mr. ROSENBLATT. All of the forms we have been talking about today, required by the act, have been computerized, and we can do a very simple interrogation of the data base based on various criteria.

In some instances, the criteria is established by either Customs or IRS.

We have actively, with the concurrence of Treasury in the past and in the present, solicited the other Federal enforcement agencies at the Washington level about the capability of the Reports Analysis Unit, and have encouraged them to take advantage of the facility and the capability.

There have been certain dissemination guidelines set up by the Treasury Department which in my opinion facilitates the request at the Department level.

Mr. ZEFERETTI. Is it used as an aid to the other agencies?

Mr. ROSENBLATT. Yes, we encourage the other agencies to use it. While I was assigned in Washington, we sent letters out to all the different agencies with a copy of the dissemination guidelines, as well as the manner in which they could obtain the information from us.

Mr. ZEFERETTI. Thank you.

Mr. Corless, a recent GAO report criticized the FBI for only recently emphasizing financially oriented conspiracy investigations.

I thought it was part and parcel of some of the responsibilities you have as an ongoing jurisdictional part of your job.

Are they talking about emphasis now on that kind of investigation, or is it something new?

Mr. CORLESS. I am not familiar with the GAO report you are referring to, but for the many years I have been in the Bureau, we have had accounting squads work on accounting type cases involving financial fraud.

We have had increased emphasis since we have established the identity of three major programs within the Bureau in our priority one area which would include organized crime and white collar crime.

Mr. ZEFERETTI. It's your increased emphasis on the Banking Secrecy Act, and using that as an instrument for your investigation?

Mr. CORLESS. That is entirely possible. Since we do not have primary jurisdiction in that area, we have not used it that often. Probably some of the problems in that area may come from the fact that it deals primarily with the movement of funds outside of this country, and until our recent, you might say, introduction into the narcotics-type violations, we have not been active.

Mr. ZEFERETTI. Do you use the act as an instrument for conspiracy investigations?

Mr. CORLESS. I would hate to say across the board, but for the Miami office there has been limited use. We have been increasing

our contacts with IRS, and if it does fit into investigations which we handle, we certainly would use the act.

Mr. ZEFERETTI. Thank you. Mr. Shaw.

Mr. SHAW. No questions.

Mr. HUTTO. I applaud all three for their statements. They further pinpoint the need for some changes, and in the interest of getting on with the hearing, I forego any questions.

Mr. ZEFERETTI. Mr. Rosenblatt, stay there.

Mr. Jorge Rios, Mr. Langone, Mr. Peter Gruden.

Gentlemen, you may proceed.

TESTIMONY OF JORGE RIOS-TORRES, ATTORNEY IN CHARGE, OPERATION GREENBACK, U.S. DEPARTMENT OF JUSTICE

Mr. RIOS-TORRES. Mr. Chairman, and other distinguished members of the panel of the select committee.

We want to thank you personally for holding these hearings on financial investigations and the status of "Greenback."

We have decided in the interest of saving time, unless the honorable committee deems otherwise, we will make a general presentation, I will make a summary of "Operation Greenback," and thereafter we will make a visual presentation for the benefit of the committee.

At the beginning of 1980, the Treasury Department, through its enforcement components, Internal Revenue Service [IRS] and U.S. Customs Service [USCS], became aware of the tremendous flow of currency occurring through the banks of south Florida; south Florida had already been considered by Federal authorities to be the main port of entry of drugs coming from South America.

As a result, a cash flow project was initiated by the Department of the Treasury with the purpose of identifying and tracing the assets of major drug trafficking organizations for seizure and forfeiture and at the same time to develop enough evidence to criminally prosecute the principals of these organizations. This is the type of "financial investigation" for which "Operation Greenback" was created.

"Operation Greenback" is a joint investigative effort between components of the Department of Justice—Criminal Division, Tax Division, U.S. Attorneys' Offices, DEA and FBI—and the Department of the Treasury—IRS, U.S. Customs Service, and Secret Service.

The Criminal Division, through the Narcotic and Dangerous Drug Section [NDDS], provides attorney support to the investigative effort of the enforcement agencies. This participation is directed to secure two main objectives:

One, to work operationally with the U.S. Attorney's Office and Tax Division attorneys using innovative approaches to develop and prosecute cases utilizing title 31—currency violations, title 26—tax violations, title 21—drug violations, and title 18—racketeering violations, and to seek the forfeiture of illegally obtained assets under titles 18, 21, and 31.

Two, to take the investigative and prosecutorial techniques learned in this pilot program and disseminate them to other districts by, (a) active onsite participation in support of other U.S.

attorneys and; (b) through conferences, training programs, and similar information exchanges with U.S. attorneys and investigators.

AGENCY COMMITMENT

"Operation Greenback" has been functioning as such since May of 1980, when the first contingent of Department of Justice attorneys—two—was sent to Miami for the purpose of organizing a task force under the supervision of the U.S. attorney.

At the present there are three Department of Justice attorneys assigned full-time to "Operation Greenback" in Miami, one attorney assigned to the middle district of Florida to work on "Greenback" cases and one attorney recently transferred from "Greenback" in Miami to Chicago for the purpose of organizing a similar task force in that district.

In addition, until recently we had two attorneys from the Department of the Treasury assigned to work exclusively in "Operation Greenback". They were out of the Office of Regional Counsel, U.S. Customs Service and the district counsel's office of IRS in Miami and assigned to work exclusively in cases on "Operation Greenback."

One of those attorneys is now in private practice, but there are ongoing negotiations with the Department of the Treasury to fill that vacancy. We still have an IRS attorney working full time in "Greenback."

We also have the support of one tax division attorney, who is handling two "Greenback" cases and is presently on trial in one of them in Miami.

The agent force is composed of 25 IRS agents, 12 U.S. Customs agents, and six DEA agents. In addition, we have four revenue agents from IRS, one intelligence analyst from DEA and two research specialists from U.S. Customs.

The other enforcement components of both Justice and Treasury have assigned one agent each to be the liaison with "Operation Greenback."

The U.S. attorney has committed himself to assigning two of his assistants to "Operation Greenback" as soon as he is authorized to hire six new assistants that he has requested.

I understand Mr. Harris has addressed himself to that possibility of getting six new assistants.

The Executive Office for U.S. Attorneys has provided space and equipment within the U.S. attorney's office in three districts—southern district of Florida, middle district of Florida, and northern district of Illinois—to house and support the respective components of "Operation Greenback."

As stated above, one of the main purposes in creating "Operation Greenback" was to develop and effectively use innovative approaches in the prosecution of title 18, title 21, title 26, and title 31 violations.

Since its inception, "Operation Greenback" has been a learning process for everybody concerned: Prosecutors, agents, the courts, and certainly defense attorneys.

Agents in "Greenback" have utilized the information obtained through reports required by the Bank Secrecy Act of 1970 to detect

and target major organizations moving fabulous amounts of currency through the banks of south Florida and elsewhere.

Prosecutors have utilized the same reports or the falsification of information contained therein to go after the principals of some of those organizations by grand jury investigations which have resulted in several indictments.

The use of the forfeiture provisions in the Bank Secrecy Act and in title 21 has resulted in the seizure of numerous assets, some of which have either been forfeited or are in the process of being forfeited to the Government.

I might add that information obtained from "Greenback" investigations has led to seizure of funds and assets in foreign countries through mutual assistance efforts.

I understand there was a question this morning with regards to similar treaties, as to the one we have with Switzerland.

I must say at this moment, there are two similar treaties pending before the Foreign Relations Committee of the Senate, pending approval, that have been initiated, one with Colombia, and I believe one with Turkey.

In every prosecution attempted so far in "Operation Greenback," prosecutors have tried to maximize the use of the criminal statutes available to them; however, some of the stronger statutes otherwise available for other types of violations—RICO: title 18 U.S.C. 1962 et seq.—are not available for title 31 violations as these are not predicate RICO offenses.

Our experience, however, tells us that some of the statutes that we are dealing with in "Operation Greenback," mainly the Bank Secrecy Act, should be amended to close some apparent and some not so apparent loopholes.

Mr. Harris addressed this morning some of those problems, and he has advised the committee that there is proposed legislation before Congress and some intended proposed legislation by the administration under consideration this morning.

Mr. ZEFERETTI. He made that very clear.

Mr. RIOS-TORRES. Additionally, the Department of Justice is reexamining certain statutes that have limited the success of investigative and enforcement efforts and will soon propose new legislation to enable us to more effectively investigate and prosecute drug trafficking activities and its all-important aspect of financial gains.

To this effect, there has been recent testimony by a Department of Justice representative before the Subcommittee on Crime of the Committee on the Judiciary of the U.S. House of Representatives.

To date, "Operation Greenback" has filed 14 indictments involving approximately 51 defendants. We have 32 other investigations open at various stages of activity. Because of the limited attorney resources at our disposal, we have had to establish certain priorities in the handling of investigations before the grand jury.

As you are probably well aware, grand jury practice has become very sophisticated and in some respects very cumbersome.

Nonetheless, we have managed to proceed with our priority investigations at a reasonable pace, bearing in mind that financial investigations of this type normally take years to complete.

"Operation Greenback" has its share of fugitives out of the southern district of Florida. Some because they are aliens who

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have not been arrested, others because they have fled after posting bail. However, we have succeeded in keeping bails in "Greenback" cases at a higher than "normal" amount.

Bails in "Greenback" cases have, on the average, fluctuated from $150,000 cash or surety to $1 million cash or surety. Certain cases have gone much higher than that to as much as $5 million surety.

Total seizures in currency exceed so far $20 million to date, with individual seizures of up to approximately $9 million from one entity.

Agents from "Greenback" have also seized five aircraft, including several twin-engine late model airplanes and seven other vehicles. We have also seized approximately 50 pounds of cocaine of the highest purity, as you will see.

Finally, we want to indicate that since "Operation Greenback" started, compliance with the reporting requirements of the Bank Secrecy Act relating to financial institutions have increased 400 percent both in the number of currency transaction reports filed and in the dollar amount reported. This has enabled us to determine that some of the more significant money exchanges that "Greenback" has under investigation have moved over $2 billion through their bank accounts during the last 3 years.

We have identified approximately 50 exchange houses operating in the Miami area and these are very conservative figures.

We would like now to proceed with a visual presentation.

Mr. Rosenblatt has this.

[Presentation of slides.]

Mr. ROSENBLATT. The first slide is self-explanatory.

This was initiated by the Treasury Department with the U.S. Customs Service, Internal Revenue Service, and what we have here is a currency transaction report, IRS Form 4789.

Due to privacy and sensitivities, we have eliminated the identification of the individual.

If you will notice the amount about the middle of the page, that is not an unusual transaction here in Florida.

You take this particular form with this particular form and what you are able to establish is source and origin of the currency, do a comparison, and here you begin to use manpower, and document the unusual flow, in this instance, as it related to Florida.

You begin your analytical phase as we did in "Operation Greenback," and you understand the relationship to the national and international elements that are involved. This initial process is done at the headquarters level in Washington and maximizes the use of limited resources for target selection.

This analytical product is also coupled up with some charts that clearly exhibit a geographic flow of currency from the United States to the source country.

Broken down in a different geographical representation is a chart for the conceptual money flow. In essence, it is the reverse side, or as we say, the flip side of the narcotics routes.

"Operation Greenback," as I said before, focuses on the proceeds. The targets selected are those financial institutions, organizations, and individuals who launder these proceeds by whatever means.

These projects require agent and analytical personnel, U.S. attorney resources, and what they are doing is a further refinement of

target selection and the application of financial investigative methodology.

Agents query data bases, criminal indices, and in this particular slide, we have an agent scheduling out the CTR or the currency transaction reports, and the CMIR reports.

The source and the origin of the currency together is either foreign or domestic and both require reports. In this fashion we have what we call the hammer and anvil effect.

This is a room within the "Greenback" facilities, for communications, and part of the traditional techniques of investigation is to have communication with sources of information, even in foreign countries.

Over to your left in this particular slide is some of the sophisticated technology we are using, video cameras to observe certain activities of suspects.

One might be curious when one sees some monopoly game sets under the mattress of a bed but your curiosity is rapidly satisfied when you discover that an individual back on August 23, 1980, left with six sets concealing $1.5 million.

You will notice in the upper portion of the picture, that the boxes are hermetically sealed with plastic wrappings.

This is an example of another courier recently departing from the Miami area.

The Pamper diaper box later turns out to be a container in which over $700,000 in U.S. currency was concealed.

Another method of taking money out of the country is by private aircraft. You will notice the identification markings on the upper right portion of the aircraft. This is one of three aircrafts that were seized.

By applying Customs law, two aircrafts were seized, and in cooperation with DEA, a third aircraft was seized in August 1981.

In this particular case, as the monopoly case, vital information was provided by DEA.

What makes private aircraft cases more difficult is the enormous amount of general cargo that can be carried out of the country. In this instance, they were attempting to export merchandise valued at over a $100,000 which was an additional violation.

Along with or commingled with this, shoe boxes full of money, six shoe boxes representing $1.6 million.

The next few slides you are about to see relate to an incident that happened here recently, a complete unloading process of money. Two boxes coming out of a vehicle trunk, and, by the way, the name in the upper right-hand corner has no bearing on this particular investigation. You have two individuals using a hand dolly to transport two large boxes, obviously too heavy to carry, into an office in a commercial building.

If you look in the center of the picture above and to the right of the lamp, you see two figures. That is the particular office these two boxes went into.

You will notice the stuffed condition, that is money. When you take the money out of one of these boxes, that is how much you can get in one of these boxes. Both boxes, twice as much.

Here is an example of another container found in this office with that much money in it.

They even use wrapping paper and masking tape to bring the money into the office which represents a pooling or a stash area for currency.

This is another container.

You have to recognize that traffickers need financial intermediaries where they can store or pool their money.

You will notice on the tables, although not necessarily related to this case, "Greenback" agents seized money counting machines, as well as minicomputers which violators need to run the financial side of their operations.

The next frame represents the focus of "Greenback." As with smuggling, narcotics seized at the border are in their most concentrated form, the proceeds are also most vulnerable when it is pooled prior to exiting the country through the use of legitimate or illegitimate channels.

That money right there represents $3.6 million.

It boils down to—these are agents, "Greenback" personnel, counting the money. It took them over 8 hours to count $3.6 million.

The criminal element has the same logistical problem that we do, only we have to be more accurate for court purposes.

They also have to employ money-counting machines.

It boils down to, this bulk of money has got to get out of the country or be brought from around the country, either through legitimate or illegitimate channels. What the criminal elements, narcotics traffickers are attempting to do is to take it out in some fashion like this. This represents a check, over $4.2 million, that was seized in this particular operation.

In a tactical sense, "Greenbacks" represents a virtual certain potential for a significant number of important prosecutions of major money launderers, financial institutions, and narcotics trafficking organizations together with forfeiture of their assets.

In a strategic sense, the operation has the potential to be even more meaningful. It represents more than just another Federal effort. It is an innovative approach which blends target selection and the techniques of traditional and investigative disciplines into a devastating weapon for Federal law enforcement against the organized criminal elements.

Thank you.

Mr. RIOS-TORRES. In concluding, "Operation Greenback" has thus far demonstrated that it is only through a joint effort of all Federal enforcement agencies that we will be able to make some inroads into the multi-million-dollar business of drug traffic.

We now submit ourselves to whatever questions the committee might have.

[The prepared statement of Mr. Rios-Torres follows:]

PREPARED STATEMENT OF JORGE RIOS-TORRES

I wish to thank the Committee for the opportunity to speak on behalf of the Department of Justice on Financial Investigations and on Operation Greenback.

HISTORY AND BACKGROUND

At the beginning of 1980, the Treasury Department, through its enforcement components, Internal Revenue Service (IRS) and U.S. Customs Service (USCS), became aware of the tremendous flow of currency occurring through the banks of

South Florida; South Florida had already been considered by federal authorities to be the main port of entry of drugs coming from South America.

As a result, a Cash Flow Project was initiated by the Department of the Treasury with the purpose of identifying and tracing the assets of major drug trafficking organizations for seizure and forfeiture and at the same time to develop enough evidence to criminally prosecute the principals of these organizations. This is the type of "financial investigation" for which Operation Greenback was created.

Operation Greenback is a joint investigative effort between components of the Department of Justice (Criminal Division, Tax Division, U.S. Attorneys' Offices, DEA and FBI), and the Department of the Treasury (IRS, U.S. Customs Service and Secret Service).

The Criminal Division, through the Narcotic and Dangerous Drug Section (NDDS), provides attorney support to the investigative effort of the enforcement agencies. This participation is directed to secure two main objectives:

(1) To work operationally with the U.S. Attorney's Office and Tax Division Attorneys using innovative approaches to develop and prosecute cases utilizing Title 31 (Currency violations), Title 26 (Tax violations), Title 21 (Drug violations) and Title 18 (Racketeering violations), and to seek the forefeiture of illegally obtained assets under Titles 18, 21 and 31.

(2) To take the investigative and prosecutorial techniques learned in this pilot program and disseminate them to other districts by: (a) active on-site participation in support of other U.S. Attorneys and, (b) through conferences, training programs, and similar information exchanges with U.S. Attorneys and investigators.

AGENCY COMMITMENT

Operation Greenback has been functioning as such since May of 1980, when the first contingent of Department of Justice Attorneys (2) was sent to Miami for the purpose of organizing a Task Force under the supervision of the U.S. Attorney.

At present there are three (3) Department of Justice Attorneys assigned full time to Operation Greenback in Miami, one attorney assigned to the Middle District of Florida to work on Greenback-type cases and one attorney recently transferred from Greenback in Miami to Chicago for the purpose of organizing a similar Task Force in that District.

In addition, until recently we had two attorneys from the Department of the Treasury assigned to work exclusively in Operation Greenback. One of those attorneys is now in private practice, but there are ongoing negotiations with the Department of the Treasury to fill that vacancy. We still have an IRS attorney working full time in Greenback.

We also have the support of one Tax Division attorney, who is handling two "Greenback" cases and is presently on trial in one of them in Miami.

The agent force is composed of 25 IRS Agents, 12 U.S. Customs Agents, and 6 DEA Agents. In addition, we have 4 Revenue Agents from IRS, 1 Intelligence Analyst from DEA and 2 Research Specialists from U.S. Customs.

The other enforcement components of both Justice and Treasury have assigned one agent each to be the liaison with Operation Greenback.

The U.S. Attorney has committed himself to assign 2 of his assistants to Operation Greenback as soon as he is authorized to hire 6 new assistants that he has requested.

The Executive Office for U.S. Attorneys has provided space and equipment within the U.S. Attorney's Office in three Districts (Southern District of Florida, Middle District of Florida and Northern District of Illinois) to house and support the respective components of Operation Greenback.

DEVELOPMENT OF INNOVATIVE APPROACHES

As stated above, one of the main purposes in creating Operation Greenback was to develop and effectively use innovative approaches in the prosecution of Title 18, Title 21, Title 26 and Title 31 violations.

Since its inception, Operation Greenback has been a learning process for everybody concerned: prosecutors, agents, the courts and certainly defense attorneys.

Agents in Greenback have utilized the information obtained through reports required by the Bank Secrecy Act of 1970 to detect and target major organizations moving fabulous amounts of currency through the banks of South Florida and elsewhere. Prosecutors have utilized the same reports or the falsification of information contained therein to go after the principals of some of those organizations by Grand Jury investigations which have resulted in indictments.

The use of the forfeiture provisions in the Bank Secrecy Act and in Title 21 has resulted in the seizure of numerous assets, some of which have either been forfeited or are in the process of being forfeited to the government.

I might add that information obtained from Greenback investigations has led to seizure of funds and assets in foreign countries through mutual assistance efforts.

In every prosecution attempted so far in Operation Greenback, prosecutors have tried to maximize the use of the criminal statutes available to them; however, some of the stronger statutes otherwise available for other types of violations (RICO: Title 18 USC 1962 *et seq.*) are not available for Title 31 violations as these are not predicate RICO offenses.

Our experience, however, tells us that some of the statutes that we are dealing with in Operation Greenback, mainly the Bank Secrecy Act, should be amended to close some apparent and some not so apparent loopholes. I understand that the Justice Department has submitted its proposals in this regard to the Office of Management and Budget. When the proposals have been cleared by OMB, the Department will be prepared to discuss them with this Committee.

Additionally the Department of Justice is re-examining certain statutes that have limited the success of investigative and enforcement efforts and will soon propose new legislation to enable us to more effectively investigate and prosecute drug trafficking activities and its all-important aspect of financial gains. To this effect, there has been recent testimony by a Department of Justice representative before the Subcommittee on Crime of the Committee on the Judiciary of the U.S. House of Representatives.

ACHIEVEMENTS

To date, Operation Greenback has filed 14 indictments involving approximately 51 defendants. We have 32 other investigations open at various stages of activity. Because of the limited attorney resources at our disposal, we have had to establish certain priorities in the handling of investigations before the Grand Jury.

As you are probably well aware, Grand Jury practice has become very sophisticated and in some respects very cumbersome. (See The Right To Financial Privacy Act of 1978, and the records to be kept under it, even for material obtained through Grand Jury subpoena.)

Nonetheless, we have managed to proceed with our priority investigations at a reasonable pace, bearing in mind that financial investigations of this type normally take years to complete.

Operation Greenback has its share of fugitives out of the Southern District of Florida. Some because they are aliens who have not been arrested, others because they have fled after posting bail. However, we have succeeded in keeping bails in Greenback cases at a higher than "normal" amount. Bails in Greenback cases have, on the average, fluctuated from $150,000 cash or surety to $1,000,000 cash or surety. Certain cases have gone much higher than that to as much as five million dollars surety.

Total seizures in currency exceed $20,000,000 to date, with individual seizures of up to approximately $9,000,000 from one entity.

Agents from Greenback have also seized 5 aircraft, including several twin engine late model airplanes and 7 other vehicles. We have also seized approximately 50 lbs. of cocaine of the highest purity.

Finally, we want to indicate that since Operation Greenback started, compliance with the reporting requirements of the Bank Secrecy Act relating to financial institutions have increased 400% both in the number of Currency Transaction Reports filed and in the dollar amount reported. This has enabled us to determine that some of the more significant money exchanges that Greenback has under investigation have moved over 2 billion dollars through their bank accounts during the last 3 years. We have identified approximately 50 exchange houses operating in the Miami area and these are very conservative figures.

CONCLUSION

Operation Greenback has thus far demonstrated that it is only through a joint effort of all federal enforcement agencies that we will be able to make some inroads into the multi-million dollar business of drug trafficking.

Mr. ZEFERETTI. Thank you. That was an excellent presentation. I know the record you have accomplished. I want to commend all of you.

The only question I have, what do you think you need as far as resources are concerned to do this job more effectively and have a greater impact on this overall problem?

Mr. RIOS-TORRES. Mr. Chairman, as was said before this morning here, there are some legislative changes that need to be done in order to facilitate.

Mr. ZEFERETTI. I know that. I am talking about the working part of it, the mechanics of it. I know legislatively which way we think we would like to go.

I am talking about the nuts and bolts. Is there a way we can assist you, at least by recognizing the problem, maybe there is a way all of us can assist toward that effort.

Mr. RIOS-TORRES. Definitely resources, human resources are in dire need in "Operation Greenback." We need more attorneys. We need more physical space to locate the operation, as members of your staff are quite aware.

Mr. ZEFERETTI. I want to apologize, too. I was going to get there last night. We got lost in traffic.

Mr. SHAW. We also need roads here.

Mr. RIOS-TORRES. Basically, those are our most pressing needs, more attorney support and more space and security considerations.

Mr. ZEFERETTI. Thank you. Mr. Shaw.

Mr. SHAW. Earlier in the day during the testimony of Jim Smith, reference was made to some of the problems that we were experiencing with the various Caribbean nations, and the problems of Colombia, or the fact that either they purposely or by intention were creating havens for narcotics dealers and traffickers.

Could you expand on that and tell us exactly what is your impression as to the extent the governments such as the Bahamas, are either cooperating with us or not cooperating, or if they are turning the other way and allowing illegal activity to go on in those areas?

If my question is too sensitive, and you would rather not discuss it, I understand.

Mr. ZEFERETTI. Mr. Gruden.

TESTIMONY OF PETER GRUDEN, SPECIAL AGENT IN CHARGE, DRUG ENFORCEMENT ADMINISTRATION, MIAMI, FLA.

Mr. GRUDEN. I would like to respond in a very general sense. When you look at the Commonwealth of the Bahamas, it comprises 700 islands, the majority of which are uninhabited. It poses a difficult problem for the Bahamian to patrol.

I have met with the Bahamian Minister of Justice and the head of the police force.

They have asked us on a number of occasions for some support. They are lacking manpower.

They have a severe problem with transportation in terms of moving their police force from island to island to respond to some of the activity and they are sorely lacking in communications equipment. Consequently, they can't even communicate with some of their outer stations on the islands out there.

There has been an effort through the State Department, with our assistance, to try to bring them up to date with some of that

equipment. There is another problem in the Bahamas, and they tend to acknowledge it.

They do have a problem with corruption. I don't think it would do any good to get into any detail, but they do acknowledge the fact that they do not control several of the islands within their possession, and the Colombian flag flies over some of those islands.

Mr. SHAW. I have heard particular reference to Andros lately which is certainly, it would not be one of the uninhabited islands and one of the chief islands of the Bahama chain.

I received information that the law enforcement officials seem to turn their head the other way almost by way of practice with regard to the enforcement of laws and complete disregard for our laws.

Do you have any specific information as to what example?

Mr. GRUDEN. No, I don't. The only comment I could make in terms of my perception of what is happening in the Bahamas is that they are completely overwhelmed with the problem as we are here, and they probably lack in resources to respond even in the small way we have in this country. They are hurting.

Mr. SHAW. Perhaps we should continue this with testimony from the State Department. It is an area that we should explore further.

Yes, sir?

Mr. RIOS-TORRES. If I may, my experience has also been with regards to cooperation and exchange of information, banking information from the Bahamas. They have strict, very strict privacy laws, banking privacy laws over there, and they have decided it is against their best interest to try to negotiate any type of agreement that would open the doors for law enforcement to get access to those banking records.

We have approached through the Office of the International Affairs of the Criminal Division, the British Government who conducts all their foreign affairs and would negotiate in a similar treaty like the Swiss Treaty on Mutual Assistance. And we have been turned down in our offer to engage in that type of negotiation with the British Government.

Mr. SHAW. Our negotiations have been with the United Kingdom rather than with the Bahamas?

Mr. RIOS-TORRES. Yes.

Mr. HUTTO. Well, Attorney General Smith this morning indicated that the people of the Bahamas just laugh at the United States.

Did you agree with that or do you find they are willing?

Mr. RIOS-TORRES. No, they are not willing.

Mr. HUTTO. I see.

Mr. SHAW. It appears an area that might be very fertile for further hearings for this particular committee.

When you have governments that are totally looking the other way, when we are being literally assaulted, and that these places are offering havens of opportunity for those that would violate our laws, a destructive process as this, it is time Congress acted and perhaps the State Department speak out.

Mr. ZEFERETTI. Mr. Hutto.

Mr. HUTTO. Just a brief question.

I believe you said earlier, or it was in your statement, on the cash transaction reports, some of those reports are filled out, but the one that goes to the Government is done away with?

Mr. ROSENBLATT. That is correct, two cases, the most recent one here in "Operation Greenback." The individuals only prepare what we would call a file or bank copy of the 4789.

The original which is supposed to go to the IRS was destroyed.

Mr. HUTTO. How many copies do they fill out?

Mr. ROSENBLATT. You only need one currency transaction report for each transaction in excess of $10,000 or unusual transaction. Only one report needs to be filled out.

Mr. HUTTO. And that report normally goes to whom?

Mr. ROSENBLATT. It goes to the IRS, I believe, in Ogden, Utah.

A copy should be kept on file. I would rather defer to Mr. Langone.

Mr. HUTTO. It is the file copy that is usually done away with?

Mr. ROSENBLATT. The original, I believe.

TESTIMONY OF ANTHONY LANGONE, INTERNAL REVENUE SERVICE

Mr. LANGONE. Mr. Hutto, in that particular instance, the banker prepared the forms, maintained the copy of their forms for their records, but neglected to send IRS our copy, so that if the bank investigative agency went in there, they would find a copy of a 4789, but it has never been reported to IRS.

Mr. HUTTO. In that particular case, then he had violated the law in fact, and was any action taken?

Mr. LANGONE. It is under investigation.

Mr. HUTTO. OK.

Mr. ZEFERETTI. Thank you very, very much. continue your good work. One question: Can you give us an idea of the value of the assets you've seized thus far?

Mr. ROSENBLATT. In excess of $20 million.

Mr. RIOS-TORRES. So far we have seized in excess of $20 million.

Mr. ROSENBLATT. Also I believe, Mr. Langone——

Mr. LANGONE. IRS has assessed both jeopardies, terminations, and regular assessments at $85 million in 1981.

Mr. ZEFERETTI. Thank you very much.

We will come back at 2:30 p.m.

[Whereupon, at 1:50 p.m., the select committee was recessed, to reconvene at 2:30 p.m., the same day.]

AFTERNOON SESSION

Mr. ZEFERETTI. Our next witness will be Hon. Gerald Lewis, State comptroller, and Mr. James York, Department of Law Enforcement.

Your prepared statements will be made part of the record. Proceed in any manner you feel comfortable with. Start, Mr. Lewis.

TESTIMONY OF GERALD LEWIS, COMPTROLLER OF FLORIDA

Mr. LEWIS. Mr. Chairman, and members of the committee, we want to thank you for the opportunity of being here and perhaps

most important, thank you for coming to Forida to get right at the heart of the action.

I have given to the committee a statement, and will try to summarize my initial several pages and deal with the overall problem of the drug menace, not only as it relates to Florida, but I think to the entire country, but you have heard that from the Governor and the Attorney General.

I would like to go directly to my particular responsibility which is as banking commissioner.

There is no secret that the drug business, goes into the billions of dollars, and obviously, this money is cash money, and to whatever extent we don't know but some of it has to get into the banking system, as it does into other legitimate businesses.

As you know, the Currency and Foreign Transactions Reporting Act, title II of the Bank Secrecy Act, is Federal legislation that requires financial institutions to report certain currency transactions to the Internal Revenue Service on a form called a currency transaction report, commonly referred to as a CTR. I have a chart which makes it somewhat simpler to understand.

Under the act, the Secretary of the Treasury is authorized to delegate the responsibility of ensuring compliance with the act to other agencies of the Federal Government. In the case of State banks that are members of the Federal Reserve, the Federal Reserve has been delegated the responsibility. In the case of nonmember banks, the FDIC has the responsibility to ensure compliance.

The purpose of this act was to require banks to report cash transactions in excess of $10,000 to the IRS within 15 days of the transaction.

This information was to be reviewed and stored in a computer base to be used by law enforcement officials to detect criminal activities of members of the underworld, those engaging in white collar crime, and income tax evaders, and anything that falls into that category, and in this case, I am certain to be used as a tool in checking on the laundering of drug money.

Since law enforcement officials have found that persons involved in criminal activity use financial institutions to facilitate their schemes, the CTR has been recognized as a tool to aid in tracing drug money laundered through financial institutions.

The bank regulators' role is to ensure that the CTR's identifying the cash transactions are reported timely and accurately. Although the bank regulators' role is only one piece of the puzzle in drug enforcement, it is a very important tool for law enforcement.

A couple of years ago I set up a task force to study this matter, and they recommended a number of improved methods for our operation, but the matter that would affect this committee is the checking on the large cash transactions, those in excess of $10,000.

The task force concluded that the Federal rules for reporting cash transactions were too loose and easily circumvented. Further, prior to July 1980, banks were not required to maintain a copy of the CTR filed with the IRS at the bank.

The FDIC and the Fed in checking a bank had no way of knowing whether thay had filed CTR's, because they didn't have the copies on file.

I had the opportunity to testify before the Senate Banking Committee in 1980, and I discussed at that time the rules had to be tightened by the Treasury Department. Whether or not my testimony had anything to do with it, I don't know.

The rules have been tightened.

There is a balance that has to be achieved, obviously, before allowing ordinary commerce to go on. You have a lot of legitimate businesses that deal in cash, school boards, for example, and you want to allow that type of activity to proceed.

You want to draw a line between that and getting the illegal transactions; but in any event, the Treasury Department has tightened the rules.

We have also established a special team of investigators on cash transactions.

I might say no other State does this, no other State regulator. We have checked with all the other States.

I have taken the position that we are in a somewhat unique position perhaps here, and that it is something that we have to do in our office, if we are going to try to get a handle on the large cash transactions that are flowing around, especially in the south Florida area.

We found out some rather interesting facts when we began doing this, Mr. Chairman.

The chart is in different colors by design. The bank reports to the IRS.

Those agencies that have access to the CRT's are the Treasury Department, Customs, and IRS, and also the U.S. Justice Department, FBI, and DEA.

We don't. We don't have access to any information that resides in any of the other agencies, so we are kind of flying blind as we do this.

We found some other interesting facts. We found in our examination of banks in the south Florida area that some banks are not filling out the Cash Transaction Report completely.

We have a copy of one. It is a very simple form, but some people are not filling it out completely. We found others are not accurately filled out, and then we found that in some cases the banks are not even sending them in at all.

Now, in one case, one State chartered bank, we checked with the IRS by telephone and received an informal response that 48 percent of the CTR's that we found on file in the bank had not been filed with the IRS.

Almost half had not been filed, and we found letter perfect copies, but they had never gone to the IRS, according to the IRS.

We asked for verification in writing that we could use as competent and substantial evidence that we need in court, and at an administrative hearing in Florida, and the IRS apparently has some legal problem as to whether they can convey this information.

They told us we would have to submit a request in writing to the Assistant Secretary of the Treasury in Washington, and he considers each request on an individual basis, and would respond within 6 months.

We sent out a request to him on a total of originally four banks, now a total of seven, and that was in August, August 19 of this year. About 1 month later in September we received an acknowledgment that this had been received, but we have not yet received the OK for the IRS to give us some written certification.

I don't know whether we have a problem with Federal legislation, or whether this is just the case, a case of what I have seen at the State level, I guess at every level, local and State of one bureaucracy versus another one and things getting bogged down.

I don't know, but I would respectfully suggest that there needs to be some more rapid response to this type of thing. We can't take any action. We are furthering our investigation. We have tried to get the bank to enter into a memorandum of understanding on the one that did not submit half of its reports, and they are claiming that we are in error, and we are going over that, and we may be.

That is a possibility, but the point is, there is nothing really that we can do because if we were to take action againt them and they were to protest, and our only evidence is a telephone call to the IRS, and I don't have to tell you that is not exactly the kind of evidence that we could get by with, and it just seems to me that that is fairly basically just letting us know in some verifiable form whether or not these reports are on file.

If I seem somewhat frustrated, I must tell you that I am, and not at you, because I am delighted that you are here and are taking this interest, but this has been going on for a long time.

I first wrote in February 1979 to the Secretary, then Secretary of the Treasury, and then U.S. Attorney General saying we were beginning to read articles about banks in south Florida laundering drug money, and any information that they had that would help me do my job, I would appreciate and I will be glad to furnish you with a file which but for the seriousness of it would cause some laughter.

It looks like a "Keystone Cops" operation. We never could get a meeting with the Treasury Department until after I testified before the Senate Banking Committee, and some of the members became a little upset, and then Treasury people said we would like to meet with you, and even then, the meetings were very nonproductive, and we then were beginning to read about a secret Treasury Department report that showed Miami banks involved in laundering of money. And we tried unsuccessfully to obtain a copy of that report, and we were told on occasions that it didn't exist, that was a product of the media, and I was given a copy then by a member of the national media in an interview when he said, "You have never seen it?"

I said, "No, I haven't." He said, "Well, would you like a copy?" And I said, "Yes."

"If you have a Xerox machine, it is yours," he said.

I get frustrated with that kind of action. Also, I was asked of that same program if I ever heard of "Operation Greenback." I said no. One week before that interview which was in November of last year, representatives of the Treasury Department told us there was no such thing as "Operation Greenback." We now know there was, and I hope that it is very successful.

Mr. SHAW. Could you put this in a time sequence?

Mr. LEWIS. The first date that I actually have some record of would be February 1979 when I wrote to the then Secretary of the Treasury and the then U.S. Attorney General saying that we have read about Federal investigations dealing with banks, and that if there was information that they could make available to us, we would appreciate it.

That began a series of correspondence back and forth. I don't recall the exact sequence. We can give that to you.

Mr. SHAW. Has there been an increase in cooperation, or is it business as usual with the present administration?

How is that shaping up?

Mr. LEWIS. In fairness, I am not sure that the new administration has had enough time for there to be a noticeable change, so I really can't say.

We are proceeding with our investigations, and we continue to turn over whatever we have to all of the law enforcement agencies, State and Federal, that are in the area, and we have not yet ever received any feedback from law enforcement agencies.

We have a very good working relationship with the bank regulatory agencies. We don't have problems getting information from the FDIC, even the Comptroller of the Currency, though we don't correspond as often, because he has the national banks and we have the State banks but when there has been occasion to work together, we found cooperation.

Again, there may be legislative problems involving the secrecy of law enforcement information. If that is the case, I wish someone would just tell us that, and perhaps, to the extent that is feasible, the law could be changed.

There is information, I am certain, that we should not have access to, that law enforcement agencies have.

Two examples of cases that I think might have been handled somewhat differently: One involved an investigation we were conducting of a State bank.

We went to the FBI agent in Miami who was our contact, told him about our concerns and asked if they had any information or wanted to work with us or whatever.

He said that they were aware of the particular concern we had about this particular individual who was a major stockholder of the bank but he could not tell us anything else.

As we proceeded with our investigation, we found the name of that very FBI agent turning up as a guarantor on a note on a loan made by the bank. We didn't know what to do with that, so we went to the DEA representative, and told him of our dilemma.

Here is the FBI agent we are dealing with and yet we find his name, and we don't know whether he is an undercover agent or is he doing something improper.

DEA acknowledged, yes, they did have an investigation going on of the bank, but couldn't tell us anything going on at the bank. We were able to remove that principal stockholder and two others resigned and the U.S. attorney did subsequently indict all three of those individuals, but somewhere back there there was no coordination.

A second example occurred just about that many months ago, in the last 6 months or so, when we were investigating a bank, and

we received an urgent call from the Federal law enforcement agency saying that you are tripping over our investigators. We have undercover people planted in the bank, and we should quietly withdraw, so they could conduct their criminal investigation.

We did in response to their request. There must be a better way to do it, because we might have blown their criminal investigation without knowing it, and this just, as I say, I don't know what technicalities may prevent them from coming to us and letting us know, but it is just very frustrating to me.

[The prepared statement of Mr. Lewis follows:]

PREPARED STATEMENT OF GERALD LEWIS

The drug menace is a cancer that threatens every citizen of this nation. And unless effective methods of dealing with this cancer are developed, the civilization, economy, and way of life that we have created in this country will surely become as emaciated as the victims of real cancer. We will see the body of this country shrivel and die right before our eyes unless we begin treatment, and if necessary, surgery to remove this malignant growth from our nation.

How are we threatened? Banking, which I am here to discuss, is just one small piece of the entire jigsaw puzzle. Everything is interrelated, and when you put it all together you see the whole picture.

The drug problem is not just a Miami problem, not just a Florida problem, and not even a national problem. It is an international problem. It begins in Latin America and elsewhere where the marijuana and cocaine are grown. We read that payoffs and kickbacks are made to ensure the uninterrupted growth of these crops of destruction. More payoffs and bribes are made to allow for the export of the drugs to the United States.

Boats and planes are loaded to the bursting point and methods of sneaking them into the U.S. are set in motion. People are hired to pick up these drugs at sea or to catch an air drop at some isolated out-of-the-way place. And as we all know, Florida, because of its proximity to Latin America and the Caribbean, and because of our thousands of miles of coastline, is a natural entry point.

Because of the huge amount of cash that drug trafficking generates, it is easy to understand how persons who are normally law abiding citizens can be brought into this operation. Huge sums of money, often many times what a person can earn in a full year, are offered for one night's work to bring the illicit drugs into Florida. And one other factor—reportedly only about 5 to 10 percent of the drug cargoes are stopped. So a boat owner, offered astronomical sums of money with a remote chance of getting caught, become a part of the scheme. It is not hard to understand why.

Now the drugs are here, and already we have bribery of government officials abroad and the corruption of our own citizens, and the drugs aren't even on the streets yet.

The pollution of our society begins when the drugs are sold and huge sums of money are infused into our economy. If you consider just the drugs alone, that leads to a variety of odious effects. The urge to acquire drugs leads to destruction of families, fortunes, and lives. Crimes related to the financing of drug habits are also another offshoot.

Those effects are serious enough, but the drug problem goes further. The drug gangs need ways to hide cash they have acquired, and so legitimate businesses fall prey to the lure of huge profits. We read that movie theaters, book stores, laundromats, and similar legitimate businesses that normally deal in cash are bought for the sole purpose of providing a front for the drug dealers.

Huge sums of cash are used to purchase expensive property, homes and condominiums. And I mean purchase, not just down payments. That unrealistically inflates the price of real estate, making it more difficult for the law abiding citizen to realize the American dream of owning his own home.

Rival gangs battle it out for control of the drug market. Almost every day you can pick up a copy of the local papers and read of some drug related killing. Some people say, "So what! It's just scum killing scum." But all too often innocent citizens are also victims. About a year ago at the Dadeland Shopping Mall, innocent bystanders were hit when a drug smuggler let loose with a spray of machine gun fire attempting to kill a rival smuggler.

That, in a nutshell, is what we are facing. Now turning to my area of responsibility, the financial institutions of this state and the role they have in this problem. We

cannot ignore the reality that some of this illicit drug money is ending up in our banking system. Federal Reserve figures clearly show huge increases in cash in the Miami area, and some of that money has to be drug related.

As you know, the Currency and Foreign Transactions Reporting Act, Title II of the Bank Secrecy Act, is Federal legislation that requires financial institutions to report certain currency transactions to the Internal Revenue Service on a form called a Currency Transaction Report, commonly referred to as a "CTR". Under the Act, the Secretary of the Treasury is authorized to delegate the responsibility of ensuring compliance with the Act to other agencies of the Federal government. In the case of state banks that are members of the Federal Reserve, the Federal Reserve has been delegated the responsibility. In the case of non-member banks, the FDIC has the responsibility to ensure compliance.

The purpose of this Act was to require banks to report cash transactions in excess of $10,000 to the I.R.S. within fifteen days of the transaction. This information was to be reviewed and stored in a computer base to be used by law enforcement officials to detect criminal activities of members of the underworld, those engaging in "white collar crime," and income tax evaders.

Since law enforcement officials have found that persons involved in criminal activity use financial institutions to facilitate their schemes, the CTR has been recognized as a tool to aid in tracing drug money laundered through financial institutions.

The bank regulators' role is to ensure that the CTR's identifying the cash transactions are reported timely and accurately. Although the bank regulators' role is only one piece of the puzzle in drug enforcement, it is a very important tool for law enforcement.

Widespread reports of laundering drug money through financial institutions began to surface in late 1978. Since my office has the power to remove any state bank officer, director, or employee that engages in illegal activity, we began to communicate with federal law enforcement and regulatory agencies, asking for any information they might have that would implicate any bank official in drug related activity. We also offered them any cooperation they might need that would assist them in their investigations.

Meanwhile, my office was actively engaged in an investigation of huge sums of cash flowing in and out of a Miami bank. This investigation underlines the frustration we sometimes experience. The focus of our investigation was the principal stockholder of the bank. We went to the FBI and told them of our concern. We told them we were going to investigate and would, of course, turn over any information to them that might be helpful to them. We also asked if they were involved in any investigation of this bank. The agent we talked to said that his office was aware of the individual, but could not tell us anything further than that. So we continued with our investigation, and discovered that the same FBI agent we had gone to had signed as a guarantor on a loan made by this particular bank. We went to the Drug Enforcement Administration and informed them that the FBI agent was involved in a transaction with the bank. At that point the DEA said "Yes, we do have an investigation going on involving DEA and the FBI," but they did not and would not tell us the nature of their investigation. They did say that they had an undercover agent working in the bank. But they did not identify the agent. We continued our investigation and eventually removed the principal stockholder from the bank. Two other bank officials resigned during the course of our investigation. Our findings were turned over to the U.S. Attorney in June, 1980. Those three bank officials were indicted earlier this year as a result of our investigation.

The frustration we felt at the time was that we wanted to do our job, and we certainly did not want to interfere with what the FBI and DEA were doing. But, I have to believe that when agencies are tripping over each other like that, it has to hinder the overall scope of an investigation.

Meanwhile, our office has been developing procedures to attack the problem. We created an internal task force to investigate laundering operations. This task force was given the responsibility of determining what jurisdiction our office had to investigate, what our examinations could discover, what changes in our examinations, if any, would be necessary to discover laundering schemes, establishing a liaison with all law enforcement agencies to exchange information pertaining to drug activity, and determining if reviewing Currency Transaction Reports would be helpful in detecting drug smuggling money, and if so, designing a method of examination and reporting.

The task force recommended the creation of a special team of investigators and examiners that would concentrate solely on tracing cash transactions within state-chartered banks. This team would examine state-chartered banks to see if they were

in compliance with Federal requirements for cash reporting. This team is now in operation full time.

I might add that this team was created from existing personnel and budget. The recently concluded session of the State Legislature did provide four additional positions for the compliance team.

The internal task force recommended that a special review section be set up within our office to carefully review results of examinations to determine what actions need to be taken and to make referrals to the proper law enforcement agencies when necessary.

We also began to employ a special computer program to trace not only those transactions that were being reported, but also those transactions that fell just under $10,000.

The task force recommended improved methods for determining if banks were complying with the federal requirement of reporting cash transactions in excess of $10,000. The task force concluded that the federal rules for reporting cash transactions were too loose, easily circumvented and difficult to enforce. Further, prior to July of 1980, banks were not required to maintain a copy of the CTR filed with the I.R.S. at the bank. I recommended a tightening of those rules to the U.S. Senate Banking Committee in 1980, and these rules have been tightened. Only time will tell how effective these changes will be.

Theoretically, one should be able to take the CRT's and the information that is contained in them to learn more of the person or corporation that made the transaction. However, the information that is being relied upon by law enforcement is only as reliable as the information that is being transmitted to the I.R.S. by the banks. We have found numerous instances in which either the forms were not filled out properly, or the forms were not being filed in a timely fashion with the I.R.S., or were not being filed at all. The one tool that we had all been led to rely on turned out to be a weak link in our information gathering process.

I have taken enforcement action to require the banks in question to improve their procedure of reporting. I have issued specific administrative orders to those banks listing their noncompliance with reporting requirements and ordered them to make a more concerted effort to comply with reporting procedures. If, after a period of time, we find they are still not complying, then more severe action against the banks will be taken. Our findings, as always, have been turned over to the federal authorities.

I said that we have discovered that some CTR's are being filled out by the bank, but are not being filed with the I.R.S. Unbelievably, there appears to be no mechanism for determining whether these forms have been filed. In other words, an examination of the bank may show letterperfect compliance, yet the I.R.S. would have no knowledge of what forms have not been filed with them. The information that law enforcement agencies are relying on could well be incomplete and even useless. In the case of one bank we have been investigating, we checked with the I.R.S. and received an informal response that 48 percent of the CTR's filed in the bank were not filed with the I.R.S. When we requested that the I.R.S. certify that information so that it could be considered competent and substantial evidence for enforcement purposes, we were told that we must request the certification in writing to the Assistant Secretary of the Treasury and they would try to respond within six months. Apparently, there is some question as to whether the I.R.S. has legal authority to share information filed with their office.

I might point out that according to a survey conducted by our task force, Florida is the only state bank regulatory agency that is routinely conducting compliance examinations on Currency Transaction Reports.

It has been very frustrating, as a state regulator, to attempt to enforce the filing of CTR's with the current federal restrictions. The laws were tightened up in July, 1980; however, I feel there are still some changes that are necessary if state regulators are to be effective in assisting the federal government in this endeavor.

Under current federal law, state regulators do not have access to CTR's that are filed with the I.R.S. Therefore, I feel it is imperative that there be some federal legislation to give state regulators access to this information.

I also recommend that agencies conducting compliance examinations set up procedures to verify that the CTR's filed at the bank are also filed with the I.R.S. in a timely manner.

I have tried to limit my discussion to my specific area of jurisdiction—banking. I hope I'm not being presumptuous to venture one further suggestion. I have read that there may be action at the federal level to coordinate under one head the entire fight against illicit drugs. I believe this is essential.

We are literally engaged in a war. The organizations we are fighting are well funded, are well armed, and have the unity and leadership to carry out their

objectives. Unless we are just as committed to fight them, we will lose. It's as simple as that.

We cannot afford to be divided and bickering. Every public agency must make the commitment now to pledge total cooperation with each other or the drug people will win.

Banking is just one piece of the puzzle, as I have said, but the very nature of banking points out the need for cooperation. In my area of responsibility, state banks, I can and will continue my efforts. But the drug people are sophisticated enough to know that my trail stops once the cash leaves a state bank and enters a national bank, or leaves a state bank and enters any bank in another state or abroad.

I will continue to do what I can, of course, but without assistance and cooperation, my office can only score a few minor victories, not total victory. I will continue to provide information that our investigators discover to the proper law enforcement authorities. The only thing I ask for is that information that I can use is also provided to me.

This complex problem can only be effectively addressed when all public agencies work together. By pooling the energy and resources of all the agencies involved in this effort, we can and will drive this illegal unwanted menace from our state and our nation.

Mr. ZEFERETTI. Thank you. Mr. York.

TESTIMONY OF JAMES W. YORK, FLORIDA DEPARTMENT OF LAW ENFORCEMENT

Mr. YORK. Thank you, Mr. Chairman.

This committee is interested in hearing about the money and financing associated with drug smuggling. The State of Florida has been diligent about providing documentation about the drug smuggling problem to the Executive and legislative leadership at the Federal level.

This is at least the third congressional committee that my department has provided specific data for. Without repeating these statistics which my staff will be glad to provide to the staff of this committee, let me assure you once again that the money and the profits associated with this $60 billion a year illegal industry are staggering.

One of the reasons they are staggering is that we have made and continue to make a tragic error. Yes, a tragic error in the executive branch, in Congress, in the State Department and even right here. While we have been holding these public hearings and waiting for legislation to be passed up in Washington, drug smuggling is marching on.

Our tragic error is focusing on the moral/philosophical debate of the drug smuggling problem. We ask ourselves, "Is marihuana and cocaine more harmful to the health of its users than, for example, alcohol or tobacco?"

The question of whether or not marihuana is more or less harmful to one's health than tobacco or alcohol is virtually irrelevant at this point, because drug smuggling is harmful to our health. It touches the lives of every citizen in some way. Drug smuggling impacts us either through inflated real estate prices, property crimes, violence, corruption, or more directly, abuse in our own homes.

Drug smuggling was very harmful to the health of: Sheila and Sandra McAdams, aged 16 and 15; and George Sims, aged 39, and Doug Hood, aged 21.

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These people, innocent bystanders, committed the unpardonable sin of accidently stumbling on a marihuana offload operation. They were summarily executed.

Drug smuggling was very dangerous to the health of little 7-year-old Andrew Martinez who was kidnaped and held as collateral for a $700,000 cocaine debt.

Drug smuggling was also very hazardous to the health of those innocent bystanders who were shopping in Dade Land Mall Liquor Store during a cocaine cowboy shootout. These people had to scramble for their lives.

And drug smuggling was also very harmful to the health of Donald Gaddis, 47 years; Steven Pollis, 37 years, and Joseph Nelson, 38 years. Not long ago we pulled their bodies from a shallow grave in Fort Myers. It appears they tried to doublecross their boss during an offload operation by taking more than their fair share.

A moment ago I alluded to the inflationary impact of drug smuggling on real estate, especially in south Florida. It is estimated that $2.5 billion in drug profits have been invested in Florida real estate, much of it in secret trusts concealing the identity of the owner. And these investments have caused real estate prices in south Florida to escalate an average of $2,500 because of drug dealers' willingness to pay inflated prices—often in cash.

In addition to the citizen sacrifices that I have already mentioned, further sacrifices are made through the indictment of not only our law enforcement, judicial, and public officials, but once law abiding citizens as well.

Yes, these drug profits all too often have an awesome power to corrupt. This particular sacrifice is destroying the very credibility of our criminal justice system in this State.

Despite all of this, the Federal Government has given the impression, by their inaction, that they don't believe that drug smuggling is a national problem. Instead, it has forced the States to apply limited budgets against an enemy with virtually unlimited resources.

And the frightening reality about all of this is that even with our best efforts against drug smuggling, our hands have been tied. They have been tied because law enforcement has been handicapped by too many excessive rules, laws, and restraints governing our criminal justice system.

But President Reagan in his address to the International Association of Chiefs of Police seems to be ready to seek to loosen those restraints. He paved the way for major reforms in Federal policies and criminal laws that have heretofore been ambiguous, unclear, and inconsistent.

Until now we have expected our Latin American neighbors to use the might of their small armies to assist us in combating this trade while our military forces, among the mightiest in the world, have stood idle.

But the President is now urging amending the Posse Comitatus Act to allow military forces to assist law enforcement in this battle—a position that the political leadership in Florida has advocated for 2 years.

Until now we have imposed U.S. environmental standards on other countries and withheld financial assistance if they sprayed herbicides that would eradicate the illicit crops. But the President is now supporting the responsible use of herbicide spraying in drug eradication efforts—a position that the political leadership in Florida has advocated for 2 years.

Until now the smugglers with their unlimited financial resources have too easily jumped their million dollar bonds and fled to the havens of the Latin Americas and other countries.

But the President has now recommended a bail bond reform that will allow judges, under carefully limited conditions, to keep some defendants from using bail to return to the streets or, more likely, flee the country. The political leadership in Florida has advocated this position for the last year.

Until now, the IRS has been prohibited from cooperating with criminal investigations. But the President is now recommending that we amend the Tax Reform Act of 1976. This Act, interpreted by criminals as the Organized Crime Relief Act of 1976, when amended, should hurt smugglers where they fear it the most—in their pocketbook.

This proposal, probably as much as any other, will strike the greatest blow to drug smuggling—the organized crime of the eighties. And again, Florida's political leadership has advocated this position for a couple of years.

To those of us in Florida, the true significance of Reagan's comments is perhaps the knowledge that the Federal Government is recognizing that drug smuggling is of national concern.

It is no longer sufficient to pay lip service to the State of Florida's position on the front line against drug smuggling. We need more than just a change in attitude, we also need those tools that President Reagan has outlined—the tools that the political leadership in Florida has advocated for years—and we need them immediately.

How long can we go on telling the parents of Sheila and Sandra McAdams that relief is coming?

How long can we tell children like Andrew Martinez that they have to be afraid to walk to school in our State?

How long can we continue telling people that it is unsafe to walk the streets or go shopping?

I am prepared to tell this committee that I can't, with a straight face, tell the citizens of this State that there is a light at the end of the tunnel, or even a glimmer of light at the end of the tunnel, if we don't get the much needed tools to fight this battle.

The remedies that President Reagan has called for can curb this "American Epidemic" if they are supported and given a chance. And if this committee really wants to make a major contribution to efforts against drug smuggling, then you should return to the Hill with a firm resolve to assist those Senators—like Sam Nunn and Lawton Chiles—and those Congressmen—like Clay Shaw—who have led the charge in getting these proposals off the ground and moving them through both Houses of Congress.

Now is the time for us to keep the spotlight on the President's words until we see the action behind those words. And I hope I heard him correctly, and that we will see that action.

We will finally get those Federal reforms that we need to assist law enforcement in harnessing the smuggling tidal wave that has engulfed our Nation.

Thank you, Mr. Chairman.

Mr. ZEFERETTI. Thank you very much, and we thank you both for your contribution and your testimony.

I am sure that each and every one of us, whether we are members of this committee or Members of Congress, we all share your frustrations in working toward a solution to this overall problem that has pretty much permeated our whole country, if not the world.

I can assure you that it has been our objective to bring to light the reforms and the identifiable tools necessary to give agencies the opportunity to function more effectively and at the same time to make the public aware that it needs a national priority to meet the problem head on.

That effort is going to be continued in the Congress and again your fine comments on the fact that the administration is finally coming out with a message that conveys a recognition that these things have a priority is welcome news. You can rest assured that we in the Congress are going to work for effective legislation that will be meaningful and make an impact.

I have a couple of questions, though.

When you get information, is it something that is sent to you on a confidential basis on the Executive level that can only be shared by you as the Executive Director of Law Enforcement or something to be shared with the rest of the cabinet of the State? And what is your relationship with the Federal agencies such as DEA, Treasury and Justice in the area of drug enforcement?

Mr. YORK. Primarily criminal history information for a lot of reasons can't always be shared with the rest of the cabinet, although the cabinet in this case is our department head.

Our primary relationship with Federal agencies is with DEA and with Customs in this State.

With respect to DEA, we have not always had an enjoyable, cooperative relationship, but I will tell you that in the last 2 years, particularly in south Florida, we have worked very closely with DEA and those problems have been minimized.

They are not nonexistent, because law enforcement officers are human beings and there are going to be day-to-day problems; but I believe the leadership in this region, Vernon Meyer and I, have a very close working relationship and because of that, and the fact that our agents have been willing to work together, the problem is just not anywhere near the magnitude it has been in the past.

This same holds true with Customs.

With the Internal Revenue Service, what we are hearing and my units are hearing are the frustrations of the IRS agents, because they can't work as closely as they would like with us, and I believe, in order to correct that, it is going to take a commitment from the Congress, but also a commitment of the top echelon of the IRS.

Mr. ZEFERETTI. Have you been notified when an operation such as "Greenback" goes into operation? Is that kind of information shared with you, or is it something that is kept within their own department?

Mr. YORK. I will give you a very quick example. I was informed last week that the Operation Outrigger case which my Department has been involved in with Justice for some 3 years, was about to be announced.

It involves a national bank in Miami, and a development corporation, and the allegations and charges involved: fraudulent loan.

I asked for a specific briefing, and despite the fact that my agents were working every day with the Justice Department Task Force to make this case, I was informed that that information could not be released to me because of the Federal restrictions.

Now, I do not resent Mr. Wampler, who is U.S. attorney, for taking that position.

That is the position he has to take by law.

Mr. ZEFERETTI. What are the Federal restrictions to your knowledge? Are they regulations within the Department structure. Why couldn't they share that kind of information with you?

Its unfortunate especially since you are dealing with the executive level of Government, and especially since you are utilizing the very agencies that you need the assistance from, that we would have this kind of cumbersome operation.

Mr. YORK. I think between the various problems, with freedom of information and right to privacy, that you will find a great deal of frustration not only on the part of State and local law enforcement officials, but on the part of the agents and the people within Justice involving this same situation.

Mr. ZEFERETTI. I know. I don't know whether you were here earlier in the day. There were various people that testified about the same problems and, it is going to be our responsibility, hopefully, to work to solve these problems. I think we will ask Justice again and try to find out exactly why this kind of cooperative information is not able to be shared.

Mr. YORK. Let me assure this committee that in the interim, that my agents will continue to render every bit of assistance to the Federal Strike Force, and all U.S. attorneys throughout this State that we can.

Mr. ZEFERETTI. One question, Mr. Lewis, because you mentioned it. I read it.

On the handling of school board money, and the reporting of same, since they deal in large sums of cash, is the reporting of an amount over the $10,000 limit still a responsibility of theirs? Or is that handled in a different way?

Mr. LEWIS. Mr. Chairman, the regulation which I don't think I have right in front of me has certain exemptions which have been tightened. Originally, the exemption in my opinion was so broad, and in the opinion of the Treasury Department it was, and they have since tightened it, it talked in terms of the normal course of business which use large amounts of cash, and those entities did not even have to report that they were getting the exemption, so there was really no way of knowing, and I believe the way it works now is that a school board, for example, merely signs the form appropriate to indicate that it is exempt, and then they don't have to constantly fill out the form.

Again, I think there has to be some reasonable balance to allow entities like that to carry on their normal function, and I think maybe the changes would hit at some of the key areas.

By the way, if I may, I neglected to say one thing. Unless you think I am just concerned that I don't get this information back from IRS, unbelievably when we checked with the Federal agencies, we found that there is no mechanism between the IRS and the FDIC.

Mr. ZEFERETTI. We found out the same thing.

Mr. LEWIS. Meanwhile, that data base, you know, we all tend to rely on the computer as kind of like a god.

The information through that data base is only as good as what goes in, and I don't think anyone can guarantee you that that information is really very useful, because if only 50 percent of the reports from a bank are in there, that could be totally meaningless to any law enforcement agency.

Mr. ZEFERETTI. Mr. Shaw.

Mr. SHAW. Do you think it might be helpful to require by law, or perhaps by regulation, that the banking house get back from the Internal Revenue Service some type of a receipt that they would by law be required to hold in their files and produce when they are questioned?

It seems absurd to require these things to be sent in, and if there is no check, it doesn't take anybody very long to figure it out, and the transactions they don't want to report, they can shop around and find somebody who will turn their head the other way and not put them in.

It is a foolish law, in my opinion, that its only use is its abuse, I guess.

Do you think that would be helpful to do something in that regard?

Mr. LEWIS. I hadn't heard that recommended before, but it makes sense. It really does, and does not sound like an onerous requirement.

At first blush it would seem to make some sense, and then when you check it, attached to it would be the receipt certification, whatever, and you would know that it was up there.

It seems to make sense.

Mr. SHAW. It is done in other areas.

I know, for instance, when you are filing a subchapter S corporation, or something of that nature, they send you back notification that your filing has been accepted and you hold that, and you can prove that this has been done.

We have a similar type of mailing back with regard to homestead exemptions and things like that. It is a question of going one step further and requiring the bank to hold onto that and keep it in their file.

I will followup on that.

Mr. LEWIS. I appreciate that.

As you talk, send it up and in duplicate, and have one certified and sent back.

Mr. SHAW. I will look into it and see if it is legislative or regulatory.

Mr. York, thank you for your kind remarks, and I would like to advise you along the lines that you talked about, on the bail bond reform, that I filed a bill which I might add, has been co-sponsored by every member of the Florida delegation in the House of Representatives, including, of course, Mr. Hutto, which would require hearings as a compulsory hearing in drug cases, so the source of funds being placed in bonds would to have been justified as coming from legitimate means, and further, in requiring the judge to consider the amount of bond, as to whether or not the individual being released is a threat to the community. That in Federal law is not required except in capital cases.

This would also apply in drug cases which would be a meaningful step forward.

I thank you both for very good statements.

Mr. ZEFERETTI. Mr. Hutto.

Mr. HUTTO. Thank you, Mr. Chairman. Thank you, gentlemen, for your testimony here today. I understand your frustration.

In some ways it echoes pretty much along the line of what Governor Graham and Attorney General Smith said earlier, as well as a number of Federal officials who testified about many of the hangups and rules and regulations, and quirks in the law that give us a real problem in trying to curb drug trafficking.

Mr. Lewis, you regulate State banks only, is that correct?

Mr. LEWIS. State chartered banks and State chartered savings and loan associations as well. When I said banks, I should have used that as a generic term, as these institutions become more and more alike these days.

Mr. HUTTO. I can see your real frustration at not being able to have access to this information when investigations are going on.

I think you ought to be plugged into that, and I was glad to hear the chairman say he would check on that.

I wonder if you would sign a letter as the chairman of the committee, maybe sign a letter or get a letter with other members of the Florida delegation asking specifically, if you say it is not in law, why the State Comptroller of Florida cannot receive this information.

Mr. ZEFERETTI. I think we will call, and we will get some answers back and whatever replies we get, we will be more than happy to send them through so you have that information.

Mr. HUTTO. In the meantime, Mr. Lewis, realizing that the Federal bureaucracy grinds slowly, the Legislature will be in session before too long. In the interim, could you not have them pass a State law requiring the same information about the cash transaction reports?

Mr. LEWIS. We could. Candidly from an industry point of view, I have to say that they are already filing volumes of reports, and I sort of—I have sort of tried to cut down on what they have to do where they are already filing with the Federal agencies, tried to say send us a duplicate rather than make them do double work.

In our spirit of deregulation, I have done that, and, of course, those are available to us, but perhaps something like that, which they are filing anyway, maybe sending us a copy.

That might not even require legislation. I have tried not to put more of a burden on the honest bankers, and I want to say this,

because everybody talks about bankers, bankers; 99.9 percent of your bankers deplore drugs and drug trafficking as much as any of us do.

Also, you have got bad apples just as you do in people that sell real estate or boats or airplanes. There is a lot of cash out there and it is going to find its way into some people's hands.

We have got some cooperation from bankers voluntarily. A banker here in Broward County called us about some banking transactions. It turned out to be cash related to an investment fraud.

We also regulate State securities laws, Mr. Chairman, and it was not drug related, but it was criminal activity, as we have had cooperation.

Most of your bankers feel just as bad about this as anyone else, and so I don't want a broad brush to paint any industry.

You got a few as you do in any industry, and so I don't want to overreact. In this one area in my limited jurisdiction, I have a feeling we could do some things. I am not saying that I want the FBI or DEA to give us information which should not be given to us.

There are occasions, if we go to them and tell them we are investigating a bank, our good faith ought to be evident enough, and it shouldn't take a situation of our tripping over their agents before they come to us, and we could have messed up in that one situation I told you about.

Sometimes it gets down to people, if you could sit down and discuss it together, it may not mean changing the law or changing a regulation, but I don't know how you do that.

Commissioner York and I have a good work relationship. We have sat down and discussed matters which we could work closer together in certain areas. There is no law or regulation that could make us do that.

In years past before he was here, this was not always the case with the Department of Law Enforcement, and there was sometimes some friction. I don't know how to say it other then personalities sometimes mesh, and I get the impression that Commissioner York does not consider FDLE his private domain. I consider my office the taxpayer's office.

We both have that attitude and as a result, we don't have any problems.

That is not a really good solid, concrete answer, but maybe a lot of it boils down to that.

Mr. HUTTO. I appreciate both of you emphasizing the fact that this is a national problem, and I think slowly and surely the message is being received.

Mr. ZEFERETTI. Thank you, Mr. Lewis and Mr. York, and I might just add to that, that some of the testimony we have heard this morning and through our discussions we hope we have helped to create a little bit more of a cooperative relationship between Treasury and the banks.

Most of the bankers feel somewhat threatened. But they believe also, I think, that if the problems are going to be solved, we must have more cooperation and more discussions which will hopefully lead to better cooperation in the future.

Thank you both, gentlemen, for your contribution.

I want to call the Federal Regulatory Panel, Mr. Jesse Snyder, Mr. Robert Herrmann and Mr. John Ryan.

Mr. Herrmann, you may proceed.

We have your statements, and they will be included in the record in their entirety.

TESTIMONY OF ROBERT J. HERRMANN, REGIONAL ADMINISTRATOR, SIXTH NATIONAL BANK REGION, OFFICE OF THE COMPTROLLER OF THE CURRENCY

Mr. HERRMANN. Thank you, Mr. Chairman. Unique to this panel, I am a Regional Administrator of National Banks and work out of the Atlanta, Ga., office.

Mr. Ryan and Mr. Snyder represent their organizations from Washington.

My testimony deals with the problem in general; and speaks for the Comptroller's Office, but given my unique perspective, I would like to add some personal views given the fact that south Florida has been an area of great significance with respect to this problem.

Mr. ZEFERETTI. Before you continue, as the Comptroller, did you run into the same problem in your area as was just testified to?

Mr. HERRMANN. Yes, sir.

Mr. ZEFERETTI. I wanted to cover that before you got any further.

Mr. HERRMANN. In this region which covers three States and 271 national banks in Florida, South Carolina, and Georgia, our function as bank supervisor is simply to insure that banks operate in conformance with safe and sound banking practices, and in compliance with many and varied statutes affecting bank conduct, and that, of course, includes the Bank Secrecy Act.

In carrying out our supervisory responsibilities, our examiners perform periodic onsite examinations. They do not, however, as a matter of course, review a bank's daily transactions.

It is essential, and a major part of our responsibility, that we insure that banks are fully informed regarding the requirements of the law and that we subject them to tests to determine that they have adopted and implemented adequate policies and procedures to insure compliance.

Earlier this year, we adopted a two-staged examination approach regarding the Bank Secrecy Act.

This approach is scaled to review those banks that we find have the potential for significant problems.

It reserves the most extensive, time-consuming procedures to those institutions that we believe warrant additional examination effort.

In this region, and this is a very recent survey, we have extended our examination approach in 47 percent of the Florida banks that we examined, 25 percent of the banks in Georgia and only 11 percent of the banks in South Carolina.

Relative to improvements that might be made in the process, it is our view that targeting of specific financial institutions is crucial.

We believe that this could be based on a substantial increase in the volume of shipments of cash to the Federal Reserve and a more refined approach to determining those banks where the variations

occur, so that we can target examinations and proceed to the institutions that we suspect are having a problem.

This could result in an early warning system for us, and one that I think would be more effective from a cost and human resource allocation.

Second, we do believe that better receipt of information from other law enforcement agencies would help us to target institutions.

We have found situations where, similar to what Comptroller Lewis mentioned, we were in a bank, and in our examination process had unearthed some transactions we felt were clear violations and subsequently found out we were involved in a Sting operation that was ongoing and in finding that out, we had to pull out.

Lastly, and in my judgment, most important to the success of the Bank Secrecy Act, is the self-policing efforts of the banks themselves.

No amount of regulatory supervision works as well as banks having strict policies and procedures in effect which are monitored internally.

In our judgment, the major impediments to the effective use of information developed pursuant to the Bank Secrecy Act are the numerous barriers that have been established which limit cooperation between all the agencies.

These limitations, actual or perceived, are among others, the Privacy Act, the Freedom of Information Act, the Tax Reform Act, the Right to Financial Privacy Act of 1978, State Privacy Acts, the grand jury secrecy issue as well as the procedures of the various agencies.

In conclusion, Mr. Chairman, we have worked very hard with the bankers.

We feel that our responsibility is to insure that the CTR's are completely filled out and forwarded.

That is our mission, and we have been very aggressive on that.

Activity insofar as the number of forms sent is increasing rapidly. There is much more to be done.

Thank you.

[The prepared statement of Mr. Herrmann follows:]

PREPARED STATEMENT OF ROBERT J. HERRMANN

Mr. Chairman and members of the committee, I am pleased to appear before this Committee to discuss the experiences and views of the Office of the Comptroller of the Currency regarding our compliance efforts concerning the Bank Secrecy Act (Act).

The Office of the Comptroller of the Currency (OCC) is charged by the Congress with general supervisory responsibility over the activities of national banks. There are currently approximately 42,000 domestic financial institutions, including commercial banks, savings and loan associations, and credit unions. National banks comprise approximately 4,400 of that total. These 4,400 national banks have approximately 19,800 branch offices. The statutory mandate of the Comptroller is to assure that national banks operate both in conformance with safe and sound banking practices and in compliance with the many and varied statutes afffecting bank conduct, including the Bank Secrecy Act. The Act and regulations promulgated thereunder are designed to assist law enforcement officials in detection and prosecution of criminal conduct by documenting certain fund flows which could involve such activities.

The Act and regulations require, among other things, that banks obtain and preserve financial information and file certain reports regarding large cash transactions. The legislative history of the Act emphasizes its purpose to facilitate the investigation of narcotics trafficking, tax evasion, and other "white collar" criminal activities which may have a high degree of usefulness in such investigations by requiring the preservation of financial information. The OCC shares the concern of the Committee and law enforcement officials regarding the potential for abuse of our nation's financial institutions by criminal elements in the handling of funds obtained through illegal activities. The Act is designed to assist law enforcement agencies in exposing such abuses. We welcome the interest that this Committee has taken with regard to the implementation and effectiveness of that law.

Today I would like to address several areas of interest to the Committee.

EXAMINATION PROCEDURES AND COMPLIANCE MONITORING

The Bank Secrecy Act requires financial institutions to file a Currency Transaction Report with the Internal Revenue Service whenever they handle a currency transaction in excess of $10,000. The OCC has been delegated responsibility for monitoring the compliance of national banks with this and other requirements of the Act.

In carrying out our supervisory responsibilities, our examiners perform periodic on-site examinations. They do not, however, as a matter of course review a bank's daily transactions nor do they necessarily visit bank branches during the regular examination process. It is thus essential that banks under our supervision be informed of the requirements of the law and, during our examinations, be subjected to tests which will determine whether the banks have adopted and implemented adequate policies and procedures to ensure their compliance with those requirements.

Since the enactment of the Bank Secrecy Act, we have informed banks of its requirements and instructed our examiners to verify the adoption of adequate compliance procedures by each bank. Notwithstanding a delay in the initial implementation of the act by a court challenge to the constitutionality of its regulations, as early as April 15, 1972, this Office required compliance with those provisions of the law which were not challenged in that suit. Soon after the resolution of that action, we put full compliance procedures into place. Over the years, as the implementing regulations have been amended, we have provided specific guidance to the national banking industry and to our examination personnel about their responsibilities under the Act, through the issuance of various Banking Circulars, Examining Bulletins, and letters.

Efforts have been underway over the past eighteen months to improve our examination procedures. At the request of Congress, the General Accounting Office undertook a study of the implementation of the Act. As a result of such increased attention to the Act, the OCC, in conjunction with Treasury, GAO, and the other financial institutions regulatory agencies, have developed, tested, and implemented revised and improved compliance examination procedures.

The revised procedures contain a two-module examination approach which requires all financial institutions to be subjected to a more thorough compliance check than was previously utilized. However, it reserves the most extensive, time-consuming procedures for institutions which warrant further examination based on the results of the first module. This is consistent with all our examination procedures which rely less on a "hands on" examination than on one which checks to see that the banks have adequate controls and procedures in place.

We have, of course, utilized more intensive compliance procedures in those geographic areas of the nation where we have observed the greatest volume of suspicions or large cash transactions.

While the revised examination procedures represent the efficient allocation of our scarce personnel resources and are consistent with the approach taken with respect to our other examination procedures, further improvements could be made in the compliance monitoring practices. Targeting of specific financial institutions for extensive examination could be based on a substantial increase in the amount of cash shipments reported from each bank to the local Federal Reserve bank or branch. This automated process could result in an early warning system which could allow us more effectively to target institutions for more intensive examination but the timeliness of such reports is important. Then, in some instances, we would need to conduct separate Bank Secrecy Act compliance examinations. We are currently forced by manpower limitations to undertake regular examinations of some banks at as much as eighteen month intervals. We also believe that receipt of information

from the law enforcement community may help us to target institutions in which we should concentrate our resources.

Lastly, and probably most important to the success of the Bank Secrecy Act, is the attitude and self policing efforts of the banks themselves. It has been our experience that no amount of regulatory supervision works as well as a bank having strict policies and procedures in effect which are monitored internally.

OCC COMMITMENT

The OCC is fully committed to its compliance responsibilities under the Act. To better fulfill our delegated responsibilities under that law, we have: Emphasized the need for the industry to develop compliance audit programs; recommended they strengthen their compliance procedures; met with accounting firms to emphasize the need for external audit coverage in the Bank Secrecy Act area; met with insurance firms who were asked to encourage the banks they insure to comply with the Bank Secrecy Act; improved our examination procedures and training; reported violations of the Bank Secrecy Act to the Treasury Department; made specific referrals to the Treasury Department and the Justice Department and assigned examiners to assist in related investigations; participated in the Operation Greenback project, almost from its inception, assigning examiners to carry out extensive investigations of institutions targeted by the Treasury Department; taken administrative actions against banks for Bank Secrecy Act violations; denied or conditionally approved corporate applications based on a bank's compliance with the Bank Secrecy Act; and met with the board of directors of banks in order to encourage the banks in their compliance with the Bank Secrecy Act.

We believe that the OCC has indeed demonstrated a substantial commitment to compliance with Bank Secrecy Act requirements and our efforts are continuing.

IMPEDIMENTS TO USEFULNESS OF BANK SECRECY ACT INFORMATION

Compliance with the requirements of the Act must be coupled with the use of Bank Secrecy Act information by law enforcement agencies in order to effectuate the Act's intended purpose. The major impediments to the effective use of information developed pursuant to the Bank Secrecy Act are the numerous barriers that have been established which limit cooperation between federal supervisory and law enforcement agencies. These are limitations, actual or perceived, that arise from, among others: the Privacy Act of 1974, the Freedom of Information Act, the Tax Reform Act of 1976, the Right to Financial Privacy Act of 1978, state privacy acts, grand jury secrecy rules, as well as the procedures of various agencies.

For example, in hearings held this summer before the Subcommittee on Government Information of the House Committee on Government Operations, extensive discussion was directed to problems faced by the law enforcement agencies under the Freedom of Information Act. The procedural mechanisms and rights established by that law, and similar statutes, are designed to promote Congressionally sanctioned values and may, inadvertently or purposefully, restrain government information-gathering activities.

The OCC endorses cooperative government efforts which are aimed at achieving legitimate law enforcement purposes. We applaud the efforts of the agencies participating in the Operation Greenback project, which bears the promise of developing successful prosecutions and which has already substantially raised the level of awareness of the banking community regarding the importance of compliance with the Act's requirements. However, that interagency effort has been hampered, to some extent, by constraints on the free flow of information between and among the agencies. We believe that statutory barriers to interagency cooperation should be re-examined and revised to assure that the intended purposes of each law cited above are carried out in a manner which is least disruptive to efficient and effective law enforcement efforts.

CONCLUSION

Recent re-examination of the implementation and effectiveness of the Bank Secrecy Act has proved a useful exercise in pinpointing deficiencies in existing compliance procedures. We believe that by emphasizing Bank Secrecy Act regulations, continuing to improve examination procedures, and fostering greater cooperation among the agencies we should be able to facilitate enforcement of the Act and our efforts will result in improved compliance. Let me underscore the commitment of the OCC to continued efforts to ensure the compliance of national banks with the requirements of the Bank Secrecy Act and to improve cooperation with the law enforcement community.

Mr. ZEFERETTI. Mr. Snyder.

TESTIMONY OF JESSE G. SNYDER, CHIEF, INTELLIGENCE SECTION, DIVISION OF BANK SUPERVISION, FEDERAL DEPOSIT INSURANCE CORPORATION

Mr. SNYDER. Mr. Chairman, I am pleased to be here today on behalf of the Federal Deposit Insurance Corporation [FDIC] to discuss the progress which has been made in improving the effectiveness of the currency transaction reporting mechanism prescribed by the Bank Secrecy Act and to explain the FDIC's role in assisting Federal law enforcement agencies in their efforts to investigate and prosecute drug traffickers.

The FDIC insures approximately 14,800 of our Nation's commercial and mutual savings banks and is responsible for examination and supervision of approximately 9,300 of these institutions which are State-chartered and not members of the Federal Reserve System.

The FDIC has been delegated the responsibility to assure compliance with Bank Secrecy Act rules by the banks it supervises.

LOOPHOLES TIGHTENED BY JUNE 1980 AMENDMENTS

Until June 1980, when the Treasury Department adopted amendments to the currency reporting regulations which closed loopholes and significantly tightened the rules, the reporting requirements were very difficult to enforce.

Under the previous regulations financial institutions could legally evade the spirit of the Bank Secrecy Act if they chose to do so, and our examiners could do little about it.

For example, (1) the exempt customer provisions were so loosely worded that almost any customer of the bank—who made large currency deposits or withdrawals with some regularity—could be granted an exemption, (2) banks were not required to retain copies of currency transaction reports [CTR's], and (3) the rules did not require banks to maintain lists of their exempt customers, merely the ability to generate lists if requested by the Secretary of the Treasury.

Our examiners did not have the legal authority to require that such lists be maintained.

The amendments adopted in June of last year closed these loopholes and, we believe, sufficiently tightened the rules to enable examiners to identify undisputed violations of the reporting regulations. The amended rules have resolved many of the practical problems previously encountered by our examiners.

NEW COMPLIANCE EXAMINATION PROCEDURES

In April of this year, FDIC implemented new examination procedures for determining compliance with the Bank Secrecy Act regulations. The procedures are now in place nationwide and were uniformly adopted by the FDIC, the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System.

The new procedures, consisting of a two-stage examination approach, are designed to identify banks which require a more inten-

sive review and to avoid imposing burdens of full-scope examination where they are not warranted.

The first stage, or module as it is called, requires the examiner to establish that the institution has appropriate operating and auditing standards. In addition, the module requires the examiner to conduct a detailed review of the institution's internal audit function and to check procedures and selected work papers, reports, and responses.

This review of auditing methodology and implementation helps the examiner decide whether to conclude the review at this point or examine further.

The second module involves an intensive examination of teller operations for compliance with the currency reporting requirements. It sets out procedures and guidelines the examiner should use in checking actual transactions and related documentation.

Criteria for selection of branches for such detailed review are provided along with general guidelines that apply to examination of multiple and single-office financial institutions.

Under this second module the examiner reviews a minimum of 5, and preferably 10 or more, days of transactions at 1 to 3 branch offices.

The procedures have been fully integrated into FDIC's regular compliance examination program which also covers compliance with Federal consumer laws and the Bank Protection Act.

Administration of the compliance examination program is centralized in each of our regional offices, where responsibility is lodged for instituting followup actions with banks which have been cited for violations by compliance examiners.

This followup action can take various forms, from a mere phone call or letter asking for bank management's affirmative intentions to correct deficiencies cited in our reports to initiation of formal administrative actions to correct the situation.

EXAMINATION AND ENFORCEMENT EXPERIENCE UNDER THE NEW PROCEDURES

Our examination results to date under the new procedures bear out earlier assumptions that the incidence of noncompliance with the currency reporting regulations is more prevalent in certain sections of the country.

For example, of the 138 module II or full-scope examinations conducted since April of this year, 121 were conducted in our Atlanta, Chicago, Dallas, and San Francisco regions.

Also, we expect examinations to reflect greater than average noncompliance in our New York region—which includes Puerto Rico—as the new examination program progresses.

As of September 30, approximately 1,100 insured State nonmember banks had been examined for compliance with 31 CFR 103 under the new procedures. The module II or full-scope examination was employed in about 13 percent of these banks.

Based on these examination results our regional offices initiated one cease and desist order and 57 memoranda of understanding.

A cease and desist order must be approved by the FDIC's Board of Directors and is a more formal enforcement action.

Memoranda of understanding are written agreements entered into by the FDIC's regional director and the boards of directors of offending banks.

Failure to abide by these understandings on the parts of banks may lead to the issuance of cease and desist orders.

Our most intense enforcement efforts have been concentrated in the areas where problems are evident. For example, in the Atlanta region, which encompasses the States of Florida, Georgia, and Alabama, 36 percent of all bank secrecy examinations were carried to the module II level. One cease and desist order relating to Bank Secrecy Act problems is now in effect and 43 memoranda of understanding have been initiated.

In addition to our formal efforts to assure compliance, the Atlanta regional office staff has instituted a program to follow up personally with bank managers on all violations of failure to file CTR's which are cited during examinations.

Our Atlanta staff has also conducted seminars for bankers which include detailed coverage of the currency reporting requirements and demonstrations of how to properly complete CTR's.

Through direct mail notices and reminders, personal contacts, and our regulatory seminars coupled with publicity surrounding criminal law enforcement activities, bankers have become much more aware of their responsibilities under the Bank Secrecy rules.

Bankers have also been put on notice that willful disregard for the regulations will be forcefully dealt with and might result in civil money penalties or criminal sanctions. As a result of these efforts, we expect compliance to continue to improve significantly.

FDIC ASSISTANCE TO THE TREASURY AND LAW ENFORCEMENT AGENCIES

The FDIC has been fully cooperating with the Treasury Department in its enforcement of the Bank Secrecy Act. Violations of 31 CFR 103 found in the banks we supervise are reported to the Treasury on a quarterly basis. We provide detailed information concerning specific situations to Treasury upon request. Project "Greenback" is another example of our cooperation. At the request and direction of the Treasury the FDIC recently completed three special investigations of State member banks exhibiting unusual currency flows. Another State nonmember bank was later identified from the cash shipment records of one of the selected national banks, and an FDIC review ensued.

Serious problems with large currency transactions were uncovered at one of the four banks, and the situation is currently under investigation by a Federal grand jury. Our investigation report on at least one of the other banks has been referred by Treasury to IRS for possible criminal investigation.

We have also cooperated directly with the Internal Revenue Service. That agency's criminal division has been authorized by Treasury to initiate criminal investigations relating to large currency transactions violations in 19 State nonmember banks; 9 in Florida, 5 in Texas, 3 in New Jersey, and 1 each in Oklahoma and Connecticut.

One investigation in Florida and one in Texas have since been completed.

In these situations, we do not conduct a regular compliance examination until the IRS has completed its investigation but provide examiners to assist the investigators when requested.

Currently we are providing such assistance in Florida and Texas. We will continue to provide such assistance wherever and whenever we can to the extent that such demands do not seriously inpede other priority commitments.

In fact, the director of our division of bank supervision has just issued guidelines to our regional offices covering our providing examiner assistance to law enforcement authorities. Our policy of maximum cooperation is clearly stated in the directive, and the new guidelines should make it easier for regional directors to authorize examiners to assist law enforcement officials.

We have recently established communications with IRS officials in the New York and Chicago areas and are exploring ways to improve cooperation and exchange of information regarding violations at local levels.

The legal hurdles have almost all been cleared, and we expect to be able to directly exchange information by year end. We believe that initiatives of this type will be expanded to other areas of the country and will further strengthen enforcement of the Bank Secrecy Act rules.

In a cooperative effort to make further improvements in the currency transactions reporting system, FDIC and the other bank regulatory agencies also agreed with Treasury to facilitate return and correction of incomplete or inaccurate forms 4789 which banks had filed with the IRS Reports Analysis Unit in Ogden, Utah.

In addition to direct contact with the specific banks involved we have notified all banks under our supervision that IRS will no longer accept outdated or inaccurate reports and provided a copy of the revised form 4789 suitable for reproduction by those banks which may not have a ready supply of up-to-date forms.

LEGAL BARRIERS TO INFORMATION INTERCHANGE

The Right to Financial Privacy Act [RFPA] which was passed by Congress in 1978 to protect bank customer records from unwarranted scrutiny by government authorities makes it difficult for bank regulatory agencies to transfer some information gathered during bank examinations to law enforcement agencies.

In fact, unless the information clearly points to a violation of law, it may not be legally passed on at all.

An example is probably the best way to explain how the RFPA serves as a barrier to the flow of information between Federal agencies. Assume that during an examination an FDIC examiner discovers inordinate amounts of cash are being channeled through an insured bank by those he may suspect to be drug traffickers.

The cash transactions, however, flow through the accounts of ABC Grocers, proprietorship. The grocery store accounts can be exempted from the reporting requirements and if they are, the transactions are not required to be reported to the IRS on form 4789.

According to most interpretations of the RFPA, information about this situation cannot be transferred to the IRS because a violation of law is not evident.

In other, less extreme cases where some violations of Federal law is apparent but where title 31 violations are not evident, the FDIC can, under the RFPA, notify the IRS or Treasury but must also notify the customer within 14 days that information from his account was transferred to another Federal agency for a legitimate law enforcement purpose.

Another impediment which may not be readily apparent is that the RFPA prescribes penalties for individual employees of a Federal agency who improperly transfer customer information. Even where an employee is instructed by a supervisor to disclose information and the disclosure is later considered to violate the RFPA, the employee could conceivably be penalized.

Thus, some examiners may be reluctant to initiate a referral of information to or discuss it with another Federal agency because they do not feel comfortable with the intricacies of the statute.

These barriers are not insurmountable and we have worked hard to insure that information which may be important to law enforcement officials gets to them in a timely manner and without violating the privacy laws.

Information flowing in the other direction, that is, from law enforcement agencies to the bank regulators, appears to be even more inhibited by Federal restrictions. For instance, if Treasury could identify suspected banks or provide other minimal intelligence to our regional directors, we could intensify examination efforts in those areas and communicate our findings to local IRS officials.

Apparently, because of the secrecy restrictions of the Federal grand jury process, and perhaps due to limitations imposed by the Privacy Act of 1974, such information is seldom communicated to us.

In summary, significant progress is being made in several important areas which will ultimately insure a higher level of compliance with the currency reporting requirements by the banking industry.

First, the June 1980 amendments closed loopholes which may have allowed some banks to ignore the spirit of the Bank Secrecy Act.

Second, the new examination procedures implemented by the bank regulatory agencies are very comprehensive and should foster greater compliance.

Third, much progress has been made in improving cooperation among law enforcement agencies and bank regulators; particularly in exchanging information at local levels.

Fourth, our enforcement efforts are yielding results.

The FDIC has been relatively successful in bringing about compliance through its use of memoranda of undestanding between FDIC and banks' board of directors and is prepared to initiate formal administrative action where necessary.

Strategic use of Treasury's civil money penalty powers, an option that has not yet been sufficiently employed, could be effective in bringing about compliance in specific, egregious situations. Such

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penalties, coupled with possible criminal sanctions, may have additional deterrence value.

As further progress is made in this cooperative effort to effectively curb illegal activities, we are becoming more confident that more of the related cash transactions will be reported and that better audit trails will exist to track the movements of large amounts of cash through the banking system.

Our efforts to improve compliance coupled with increased efforts by law enforcement authorities should lead to a greater number of successful prosecutions of criminal drug traffickers.

Thank you.

Mr. ZEFERETTI. Thank you, Mr. Snyder.

Mr. Ryan.

TESTIMONY OF JOHN E. RYAN, DIRECTOR, DIVISION OF BANKING SUPERVISION AND REGULATION, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. RYAN. Thank you, Mr. Chairman. I will just be brief.

I request that my full statement be submitted in the record.

Mr. ZEFERETTI. Without objection.

[The prepared statement of Mr. Ryan follows:]

STATEMENT OF JOHN E. RYAN, DIRECTOR, DIVISION OF BANKING SUPERVISION AND REGULATION BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

I am pleased to appear before this Committee and participate on behalf of the Federal Reserve in this public hearing on Governmental efforts to investigate and prosecute those involved in drug trafficking. The human consequences of narcotics abuse are extremely severe and therefore require effective action to ensure that those responsible for trafficking in drugs are prevented from exacting the terrible human and social costs associated with drug abuse. In view of the dimensions of this problem, the Federal Reserve is fully committed to cooperating with law enforcement agencies in conducting special investigations and providing information where appropriate, and in ensuring compliance with the Bank Secrecy Act's reporting requirements.

At the outset, I think it may be useful to spell out the activities and responsibilities of the Federal Reserve that have a bearing on the concerns of this Committee. As a bank supervisory and regulatory agency, the Federal Reserve refers to the appropriate law enforcement agency evidence of possible criminal conduct that is brought to light through its examination powers. In addition, the Federal Reserve issues, redeems, destroys, and processes currency for member banks and has provided technical expertise to law enforcement agencies on banking matters in connection with drug-related investigations. Further, the Federal Reserve has specific responsibilities for monitoring compliance of the financial institutions under its direct supervision with the requirements of the Bank Secrecy Act. This responsibility was delegated to the Federal Reserve and other bank regulatory agencies by the Department of the Treasury, which has primary responsibility for the enforcement of the statute. Among other provisions, the Bank Secrecy Act requires financial institutions to report certain currency transactions in excess of $10,000 to the Treasury Department. The reporting and other requirements of the Bank Secrecy Act were designed to frustrate organized

criminal elements by putting the spotlight on currency transactions that are out of the ordinary.

The Federal Reserve System has primary supervisory authority over approximately 1,000 State member banks and 125 Edge Corporations, domestic subsidiaries of banks that are licensed to engage exclusively in international banking. The System is charged by Congress for ensuring that these commercial banking organizations are operated in a safe and sound manner and for determining their compliance with U.S. banking laws and regulations. The Federal Reserve discharges its safety and soundness and compliance responsiblities largely through the conduct of supervisory examinations and through the referral of possible violations of law to the designated agency with primary responsibility for enforcing the relevant statute.

As a result of its responsibilities for processing currency and coin, the Federal Reserve cooperates with the Treasury Department by providing information concerning currency flows into and out of the Federal Reserve Banks and their branches that result from the requests of banks for currency and coin. This information can assist the Treasury in determining which regions of the country have a pattern or volume of cash transactions that may warrant further investigation.

One study by the Treasury Department of these flows showed what appeared to be unusually heavy inflows of currency at the Miami branch of the Federal Reserve Bank of Atlanta, particularly in $50 and $100 bills, denominations that are reportedly popular with narcotics operatives. Using the records of the Federal Reserve, and the currency transactions reports filed by banks, a number of financial institutions in Florida were selected for review for compliance with the Bank Secrecy Act as part of an effort known as Operation Greenback. Each of the

Federal banking agencies have conducted examinations as part of this on-going effort. Prior to the commencement of these examinations, the banking agencies conducted a special training session in Florida for the bank examiners who were assigned the responsibility for the examinations. The training session was designed to brief the examiners on expanded examination techniques developed principally by the Federal Reserve in conjunction with the other Federal banking agencies. In addition to these examinations, Federal Reserve examiners have responded to various requests from the Internal Revenue Service and the Justice Department for technical assistance in connection with investigations of possible violations of the Bank Secrecy Act by financial institutions.

The examination procedures followed by the Federal Reserve to monitor bank compliance with the Bank Secrecy Act have evolved over time and expanded as our experience with enforcement has broadened. Beginning with the passage of the Bank Secrecy Act in 1970, Federal Reseve examiners were instructed as to its requirements in examination schools and were provided with examination procedures to check compliance. The original compliance checklist, worked out in consultation with the Department of the Treasury, designed more detailed examination guidelines which were forwarded to the examiners for implementation. In addition to consulting with Treasury to develop these procedures, Federal Reserve examiners have conducted special examinations of State member banks for possible violations of the Bank Secrecy Act, such as the Operation Greenback project in south Florida to which I have already referred. Moreover, the Federal Reserve remains committed to assisting law enforcement agencies when necessary and feasible in the conduct of special investigations of possible violations. We believe these steps represent a long-standing desire and commitment on the part of the Federal Reserve to cooperate with the U.S.

Treasury and the primary law enforcement agencies in ensuring compliance with the Bank Secrecy Act.

In order to improve our ability to monitor compliance with the Bank Secrecy Act and to provide Treasury with better information on possible violations, new and more comprehensive examination procedures, based on those in place at the Federal Reserve Bank of New York, were developed in 1980 by staffs of all the Federal regulatory agencies working under the aegis of the Federal Financial Institutions Examination Council. These revised procedures (which are appended to my testimony) were initally field tested by the agencies late last year and reviewed by staffs of both the Department of the Treasury and the GAO, whose comments resulted in some modifications to the procedures. The procedures were formally implemented in February of this year.

The new examination procedures are comprised of two separate phases or modules that are progressively extensive in scope. This approach was designed to determine compliance in a manner that minimizes undue burden on the bank while making maximum efficient use of limited examiner resources. In the first phase the examiner must establish that the financial institution has appropriate internal operating and auditing standards to ensure compliance, determine that the institution has established a program of employee education with regard to the requirements of the regulations, and determine that operations personnel are sufficiently knowledgeable about these requirements. This phase also contemplates actual review of the reports submitted (4789's and 4790's), the list of customers exempted from reporting, and the volume of cash shipped to and/or received from the Federal Reserve Bank or a correspondent bank. If the financial institution's performance is found deficient as a result of this evaluation, or if the institution has an unusually high volume of cash shipments to correspondent banks or Reserve

Banks, the examiner proceeds to the more exhaustive second phase procedures that involve extensive testing of actual transactions to determine if reports are filed as required. The procedures as I have outlined them were implemented on a Systemwide basis in February of this year, and our experience to date is that the procedures are an effective tool in monitoring compliance with the Bank Secrecy Act.

We are pleased to note that the GAO, in a recent report, concluded that the new procedures will enhance our ability to monitor compliance with the Bank Secrecy Act and that, together with actions taken by the Treasury Department, they will improve the quality, timeliness and usefulness of Bank Secrecy reports to the responsible law enforcement investigators. In conjunction with the procedures, the Federal Reserve has taken a number of other actions to contribute to these objectives. In particular, the Federal Reserve has increased the number of examiner days devoted to Bank Secrecy, expanded training efforts in this area and has improved the timeliness and detail associated with the information on possible violations that is provided to the Treasury on a quarterly basis. This information includes a list of banks cited for apparent violations of the Bank Secrecy Act, specific transactions that were not reported, and bank management plans for ensuring future compliance. In addition, the Federal Reserve is continuing to explore ways in which the study of cash flows between member banks and Reserve Banks can be effectively used in targeting the Bank Secrecy examination procedures on those banks whose circumstances suggest a high volume of cash transactions.

We believe that there have over time been some compliance problems with the Bank Secrecy Act. Some of these problems, as the GAO recognized in its study, were due to vague and imprecise regulations that left room for wide-ranging

interpretations, unclear or overly broad exemption provisions, or to the difficulties that a number of commercial banks, particularly smaller institutions, were having in devising compliance mechanisms and understanding the requirements in light of the strains that were placed on these resources by a surge of new regulations and paperwork. Finally, some of the problems, prior to this year, may have been due to the need for more comprehensive procedures on the part of the banking agencies to monitor and enforce compliance.

Recent amendments by the Treasury department to the implementing regulations that tighten exemption procedures for the filing of currency transactions reports have removed many ambiguities. We believe that these revisions should result in more consistent interpretation and reporting. Moreover, we believe that these changes combined with the new examination procedures will facilitate more effective compliance monitoring.

A review of the reports we have submitted to the Treasury between January 1, 1980 and June 30, 1981 indicates that the Federal Reserve has:

- examined and reviewed Bank Secrecy Act compliance in 1,573 financial institutions;
- cited 71 institutions for not filing currency transaction reports;
- criticized 88 institutions for not maintaining a current list of customers who are exempt from reporting such transactions; and
- responded to four requests from the Treasury for additional information regarding apparent violations.

In spite of certain instances of noncompliance, we believe that the overwhelming majority of senior managements of the financial institutions under the supervision of the Federal Reserve would not knowingly permit their institutions to be used as vehicles for laundering narcotics-related monies and that compliance with the Bank Secrecy Act is generally good. Moreover, the banks

cited for noncompliance have responded to examiner criticism and have instituted corrective action to insure future compliance with the Bank Secrecy Act. Nevertheless, in an effort to reinforce the compliance commitment of financial institutions, the Federal Reserve, on September 17, 1980, forwarded a letter to the Chief Executive Officers of the institutions under its supervision requesting a review of procedures to insure that employees were being properly trained concerning the requirements of the regulations and that adequate internal controls were in place to insure compliance with the Bank Secrecy Act.

In conclusion, it is my opinion that the recent changes in the regulation, the steps being taken by the enforcement agencies to make greater use of the reported data, and the new bank examination procedures will improve the level of compliance with the Bank Secrecy Act by financial institutions. We believe that this is important, given the importance of the Act. We must recognize, to be sure, that it may not be possible for our bank examiners, or for the bankers themselves for that matter, to be one hundred percent certain that narcotics-related monies are not flowing through the banks. As we all know, currency, being fungible with no lasting identity to any particular transaction, is extremely difficult to trace, and there seem to be an infinite number of ways for the dishonest to frustrate or circumvent necessarily rigid statutory or regulatory requirements. We share, however, the Committee's concern over the harmful effects of drug trafficking and will continue to cooperate with law enforcement agencies and strive to improve our examination techniques for ensuring compliance with the relevant laws and regulations.

FINANCIAL RECORDKEEPING AND REPORTING REGULATIONS EXAMINATION PROCEDURES

The following procedures for testing compliance with Financial Recordkeeping and Reporting Regulations (Bank Secrecy Act), 31 CFR 103, are set forth in two separate modules which are progressively extensive in scope. The first module includes "stops" which provide the examiner with the ability to determine whether the examination can be concluded at that point or whether the examiner should continue.

Module I requires the examiner to establish that the examined institution has appropriate operating and auditing standards. In addition, it requires the examiner to conduct a detailed review of the institution's internal audit function and entails the examination of procedures and selected workpapers, reports and responses. This review of auditing methodology and implementation should enable the examiner to decide whether to conclude the review or examine further.

Module II sets forth guidelines for the examiner to employ in conducting a review of a sample of actual transactions and related documentation.

This same type of extensive examination (i.e., both Modules I and II) would also be conducted in certain institutions determined by the primary regulator or identified by other regulatory or law enforcement agencies as being in extensive noncompliance with the regulations.

MODULE I

The purpose of this module is to determine that the financial institution under examination has established operating standards and audit procedures to reasonably ensure compliance with the requirements of the regulations.

It is recognized that the reporting requirements will not be applicable to those credit unions which do not conduct cash transactions.

Procedures

1. The examiner should meet with and submit the "Checklist" to either a senior official or compliance officer, if applicable, of the institution for completion and require sign-off by the official.

2. The examiner should ascertain that the institution has established in writing formal operating procedures to ensure compliance with the regulations. It would be acceptable for certain small financial institutions which do not regularly handle large currency transactions to operate under standard procedures not reduced to writing.

a) Reporting - Operating procedures should set forth the requirements of the regulations and establish compliance guidelines with respect to large cash transactions and exemptions granted to customers.

b) Recordkeeping - The institution's record retention schedule should, at a minimum, include the record retention requirements of the regulations. Furthermore, requirements for the maintenance of lists of exempt customers with retail affiliations and customers from whom taxpayer identification numbers have not been obtained should be included.

3. Obtain a copy of the institution's list of exempt customers. Through a review of this document, determine:

a) that its contents conform to the requirements of the regulations (name, address, business, nine-digit Federal taxpayer identification number, reason for exemption, etc.) (103.22(e)), and that the exemptions appear reasonable.

b) that the institution has, in granting exemptions, adhered to its established policy.

4. The examiner should review the file of reports submitted (4789 and 4790) and ascertain that they are properly completed and filed as required.

5. The examiner should ascertain that the institution has established a program of employee education with regard to the requirements of the regulations.

a) Tellers, through an ongoing training program, should be apprised of the reporting requirements for large cash transactions.

b) Operations personnel should be made aware of the current requirements of the regulations and management should periodically reinforce the importance of compliance.

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Procedures (continued)

c) Operations personnel (i.e.. tellers, platform officers, branch managers) should be interviewed to ascertain whether they are sufficiently knowledgeable concerning the regulations and operating procedures to assure compliance. This phase of the examination should be conducted at those branches which conduct relatively large volumes of cash business.

PROCEDURE 6 IS TO BE OMITTED IF THE INSTITUTION DOES NOT HAVE AN INTERNAL AUDIT FUNCTION. IN SUCH CASES, THE EXAMINER SHOULD ASCERTAIN THAT A PROGRAM OF MANAGEMENT REVIEWS OR SELF AUDITS HAS BEEN ESTABLISHED WHICH ENCOMPASSES THE REQUIREMENTS OF THE REGULATIONS.

6. The examiner should test the institution's own audit procedures and determine that the internal audit function provides coverage of the following sections of the regulations.

a) Reporting - Coverage of the reporting requirements should be found in the procedures and should include a review of actual tellers' work and Forms 4789 and 4790.

b) Recordkeeping - Coverage of the institution's recordkeeping activities should encompass a test of adherence to the in-house record retention schedule. It is understood that this schedule should meet the requirements of the regulations.

c) Exemptions - Coverage should include audit steps necessary to ascertain that the institution is maintaining a list of exempt customers which includes their retail affiliations as required by the regulations. The examiner should expect the audit procedure to provide a test of the reasonableness of the exemptions granted.

d) Foreign Accounts - Coverage in this area should require the auditor to ascertain that the institution has filed Form 90-22.1 declaring interest in a foreign financial account.

7. The examiner should review the results of the prior examination report and follow-up on any deficiencies.

8. The examiner should review the totals of cash shipped to and/or received from the Federal Reserve Bank (reported on Form MD-115) or correspondent bank during the last six months. If, in the examiner's judgement, that amount appears high in relation to the amount the bank has reported on Form 4789 for the last six months, the examiner should discuss his/her findings with management and obtain a reasonable explanation.

STOPS

At this point, the examiner has to exercise judgement in deciding whether further examination and testing is needed.

—If the examiner is satisfied with the results from the steps above, the findings should be summarized in the workpapers.

—If, however, it is determined that further work is warranted, the examiner should implement Module II.

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MODULE II

The purpose of this module is to conduct on-site examination of teller operations relative to Financial Recordkeeping and Reporting Regulations. This module sets out procedures and guidelines the examiner should use when conducting test checks for compliance with the regulations. Criteria for selection of branches for detailed review are listed along with general guidelines applicable to either multiple or single office financial institutions.

This phase of the examination should include a minimum of five (preferably ten or more) days of transactions and one to three branch offices. Branch examinations should encompass a review of the work of selected tellers within the days selected.

The selection of tellers should be governed by the bank's internal procedures. For example, if it is the bank's practice to direct all large currency transactions to specific tellers, the examiner may concentrate on the work of those tellers. In the absence of such procedures, or if the procedures are not being followed, the work of all tellers should be reviewed.

I. Complete Exhibits A and B: A Review of Currency Distribution/Cash Control Center and Branch Operations

A. Submit Exhibit A, the Currency Distribution and Cash Control Center Letter and its attached Currency Shipment/Distribution Report to the Officer-in-Charge of the Center.

B. If branches ship directly to a Federal Reserve Bank or a correspondent institution, then a copy of Exhibit A must be submitted to every branch that does ship currency directly to a Federal Reserve or correspondent institution.

C. Check the records maintained at the currency distribution/cash control center or the branch to ensure that the information in those records is compatible with information provided by the Officer-in-Charge in Exhibit A and the guidelines outlined below. (See Section II.)

D. A Branch Office Letter (Exhibit B) should be personally addressed and sent to every branch.

II. Guidelines for Selection of Branches for On-Site Review

A. In reviewing the information provided in Exhibits A and B, examiners should use the following criteria to select those branches for on-sight review.

1. Branch requests for large denomination currency represent the most significant portions of their total currency requirements;

2. Branch requests for large denomination currency are significantly greater than average branch requirements;

3. Branch does not ship large denomination currency;

4. Branch reports no exempt list;

5. Branch manager would not sign the statement (Exhibit B); and

6. Branch is characterized by unusual cash transactions with Cash Control Center, Federal Reserve Bank, or correspondent institution.

B. In the absence of significant leads, consider selection of branches for on-sight review by sampling on a random basis.

III. General Guidelines for On-Sight Review

A. When at the office location, the examiner is to review the work of selected tellers within a specific time period. (See above criteria for selection of tellers. Recommended time period: minimum five days, preferably ten days.) The examiner should take into account the time period allowed for filing Forms 4789 and 4790 in selecting the time frame in which the examination will be conducted. For example, if the date of examination is 12/31/80, the grace period for filing is 15 days, and the examiner is reviewing transactions for 2 weeks, or 14 days, then the examiner should review transactions at least 29 days before 12/31/80.

B. Obtain, for selected tellers, completed cash proof sheets for as many consecutive dates as practical. From a day-to-day comparison of total $50 bills and $100 bills, determine specific tellers who experienced a significant ($10,000) fall-off in these denominations that is not supported by the tellers' transactions. Incidents of this type should be reported to management as possible incidents of currency washing.

IV. Review Procedures for Selected Tellers and Selected Dates

A. Obtain and review tellers' documentation for the selected dates.

B. Note any cash-in or cash-out transactions of more than $10,000.

C. In instances where such transactions are discovered, determine the type of transaction and if it was reported. Transactions with non-exempt customers not reported should be researched to ascertain if they are truly subject to the regulation.

D. Review consecutive transactions which total in excess of $10,000 to ascertain if made by or for one depositor.

E. The following transactions should be checked:

1. Cashed checks — items should be traced to ascertain if they are a cash-out of more than $10,000 or part of a split transaction. Split transactions which do not involve a cash-out of more than $10,000 should be eliminated.

2. Cash deposits -- any transaction involving the receipt of more than $10,000 cash.

3. Savings withdrawal -- cash withdrawals of more than $10,000.

4. Personal money orders or official checks sold -- any sale for more than $10,000 cash must be reported, even to an exempt customer. Be aware of consecutive items sold. A check of paid items could reveal that they were sold to same customer.

5. Savings bonds sold or cashed -- transactions involving more than $10,000 cash.

6. Official checks cashed -- cash-outs.

7. Loans -- note teller receipt or pay-out of more than $10,000.

8. Securities sold or purchased -- if institution acts as agent for an individual and the transaction involves more than $10,000 cash.

E. The examiner should obtain and review the list of exempt customers. Lists which appear inordinately long or which contain names of customers the size or nature of whose business would not ordinarily merit exempt status should be discussed with management of the institution under examination. If after discussion with management, the examiner feels that criticism may still be warranted, the matter should be referred to the examiner's supervision department or regional office.

V. List exceptions for possible inclusion in the report of examination.

EXHIBIT A

CURRENCY DISTRIBUTION AND CASH CONTROL CENTER LETTER

Date: _____

_____, Officer-in-Charge Branch#: _____
Currency Distribution/Cash Control Center

_____
(Location)

Dear Sir/Madam:

In order to facilitate our review for compliance with Financial Recordkeeping and Reporting Regulations, please submit to the below-named examiner the following information. Supporting source records should be made available for review upon request.

_____
Examiner

Please provide, according to the attached format, the following information for the period from _____ to _____, inclusive.

1) For branches which ship and receive currency through a central currency distribution center within the institution, please provide:

   a) A list of all currency shipments between the distribution center and the Federal Reserve Bank or correspondent institution;
   b) A list, by branch, of all currency shipments between the distribution center and branches;
   c) A list of currency shipments between branches;
   d) A list of branches which have shown a significant increase in their use of large bills during the past twelve months, either as a portion of their total shipment of currency or in comparison to other branches.

2) For branches which transact (ship and/or receive currency) with the Federal Reserve Bank or correspondent institution, please provide:

   a) A list of all currency transactions between the branch and the Federal Reserve Bank or correspondent institution;
   b) A list of all currency transactions with other branches.

(Signed) _____
(Title and Position)

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CURRENCY SHIPMENT/DISTRIBUTION REPORT

from _____ to _____

Officer-in-Charge _____

Institution 1/

Name _____

Location _____

1/ The Report would be submitted to the institution if cash distribution was carried out through a cash distribution center.

CURRENCY RECEIVED				CURRENCY SHIPPED			
Date	Received from	Total amount of shipment	Total amount of large ($50's & 100's) bills	Date	Shipped to	Total amount of shipment	Total amount of large ($50's & 100's) bills

(Signed) _____

(Title and Position) (Date)

EXHIBIT B

BRANCH OFFICE LETTER

Date: _____

_____, Officer-in-Charge

_____, (Office)

_____, (Location)

Dear Sir/Madam:

To facilitate our examination of compliance with Financial Recordkeeping and Reporting Regulations under Public Law 91-508, please furnish the examiner-in-charge with the information listed below.

_____
Examiner

1) A copy of your list of customers who normally have currency transactions over $10,000 (exempt customers).

2) Describe how currency transactions over $10,000 for customers are recorded and reported by individual tellers at your office.

3) Describe the records used at your office to document, by denomination, currency transfers between tellers, including transfer from and to vault cash.

4) Name of person in your office who is responsible for filing Currency Transaction Reports (Form 4789).

5) Indicate where copies of all Currency Transaction Reports (Form 4789) prepared by your office are maintained.

6) A list of all transactions for which Currency Transaction Reports (Form 4789) are due to be filed but have not yet been submitted by your office.

7) If periodic reviews are conducted by office management of exempt customers to ensure that their status has not changed under Recordkeeping and Reporting Regulations, please make supporting documentation available, including:

Branch Office Letter

a) dates of last two reviews;
b) description of work reviewed;
c) names of individuals who conducted the review and their findings.

* * * * * * *

Currency Transaction Reports (Form 4789) have been completed for all required transactions. Lists of customers who normally have currency transactions over $10,000 (exempt customers) are currently maintained.

(Signed) _____
Office Manager

Mr. RYAN. There is probably no point in me going into a description of the examination procedures. We all follow the same procedures that were worked out on a joint basis.

The GAO has reviewed those procedures, and we think they are sufficient to insure reasonable compliance. They are in place, and we have every reason to believe that they are working pretty well.

I might just touch on an aspect that the Federal Reserve is uniquely involved in, and that is the provider of currency to the banks.

Banks ship currency to the Federal Reserve and order currency back from the Federal Reserve.

Mr. Herrmann mentioned if we had some way to access this information, we might be in a better position to target individual banks that had unusual currency flows.

I might mention that the Federal Reserve Bank of New York is now in the process of building a computer model that is designed to do just that, to identify banks that have unusual flows, and to highlight those banks, so that they can be targeted for more intensive investigation to see that they are complying with the Bank Secrecy Act.

As an aside, I might mention that that process at first blush seemed to be a relatively simple one, but as we got into it, it turned out to be much more complex than one might imagine.

In any event, that effort is underway, and we would expect to have results from the New York work, and we would try to implement that throughout the Federal Reserve System.

The third point I might make is that indeed we have experienced the same, some of the same difficulties that other members or other witnesses today have mentioned.

We have had an instance that I can recall very vividly in which the bank had in its files copies of the forms, the currency transaction reports, and yet there were no corresponding forms on file with the IRS.

The bank claimed that they sent them, that maybe the IRS lost them.

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We had no way to judge the veracity of that claim, so we were unable to get to the bottom of it, frankly.

Your suggestion, or the suggestion that was made about some mechanism for insuring that the forms are indeed filed is a good one and worth exploring.

In conclusion, Mr. Chairman, I think that, I know as a matter of fact, that the Federal Reserve is committed to enforcement of the Bank Secrecy Act.

I think, as a matter of recognizing reality, we have to recognize that it may not be possible for our bank examiners or even for the bankers themselves to be 100 percent certain that narcotics money isn't flowing through their banks.

Currency is fungible. There is no lasting identity to any particular transaction and, therefore, it is extremely difficult to trace and, therefore, there are an infinite number of ways for the dishonest to frustrate and circumvent these regulations.

I think that the regulations on the currency transactions are a step in the right direction and a useful tool.

We remain committed to its enforcement.

Mr. ZEFERETTI. Thank you, gentlemen.

Since the three of you represent the agencies that have the Federal auditing responsibilities there have been complaints that auditors have cited banks for seemingly inconsequential technical violations, such as a zip code on a 4789 record which contained a wrong number, and an instance where a 4789 had not been filed on a series of some 250 individual cash deposits from area public school lunchrooms, which aggregately exceeded $10,000.

One banking institution went on to describe a catch 22 situation wherein they are hesitant to call attention to a discrepancy in a 4789 which they may discover through their own internal auditing operations for fear their diligence to check their own compliance would bring about certain citations.

Do you see that as a problem for auditors who are perhaps unable to make a differentiation between what is a violation and a common error, and therefore carry out their audits in a rather callous fashion?

There has to be a way of creating a cooperative spirit between the auditor and the banks, and I would like to hear your comments on what you may have run across, what your people may have told you and if in fact this is something that is an ongoing problem, or is it merely an isolated case?

Mr. HERRMANN. Mr. Chairman, from a personal point of view in the Atlanta regional office, I would agree that early on as we stepped up the pressure and became very, very aggressive, there was some overkill, some examiner overzealousness.

There has been a balance mechanism now put in place, but I frankly think in some instances bankers were using that to cloud the issue where forms were not completed and forwarded on.

I do think there certainly were some incidents of that early on, but I believe that has now settled down. I think it is a reasonable statement to say at this point those kinds of problems are no longer occurring.

Mr. ZEFERETTI. Anybody else care to comment?

Mr. SNYDER. While an examiner may cite numerous small technical errors, he is not putting the same weight on them. He would have a responsibility to point out that there are errors in the way these forms may have been filled out, or to point to various deficiencies but as his findings move up the regulatory ladder, technical errors don't have the same impact as substantive violations.

Mr. ZEFERETTI. Basically what they are talking about is whether or not the individual is intent on violating that specific law, and that is where we are at.

The other parts of it, yes, I could agree with you, but not on that one. Sometimes, I know, the bank managers feel like they get harassed, and we are trying to open up the dialog, so it becomes an easier job for you and for them to transform that information into something that our law enforcement officials may be able to use.

Mr. SNYDER. We, and each of the agencies, are assisting the Internal Revenue Service in their data capture process, getting those forms correctly submitted, the blanks filled out properly, and obtaining the necessary data.

The IRS has been sending back thousands of these forms for such innocuous errors as you just mentioned. We have agreed to help them get the best data bank possible.

Mr. ZEFERETTI. What is your operational relationship with the other agencies, whether it be on the Federal or State level?

Is there an ongoing working relationship? Are you able to sit down and work to solve your mutual problems?

Mr. SNYDER. Currently, many of the common problems or the common objectives are being channeled or met through the Federal Financial Institutions Examination Council.

The FDIC, the Office of the Comptroller of the Currency, the Federal Reserve System, the Federal Home Loan Bank Board and the National Credit Union Administration are represented on that Council, and there is a representative of the State banking agencies, so that when a program like this channels through that Council, we can attack the problems on a cooperative and joint basis.

Mr. ZEFERETTI. Thank you. Mr. Shaw.

Mr. SHAW. Mr. Ryan, I have heard from time to time how the bank deposits through the Federal Reserve System seem to swell way out of proportion in this part of the country.

Could you give us a little overview on that and the extent to which we are out of whack with the rest of the country which would, I assume, indicate this is drug money coming in?

Mr. RYAN. I will have to submit the data for the record and get the information. I don't have the numbers.

[Mr. Ryan subsequently submitted the following information for inclusion in the record of the hearing:]

CURRENCY RECEIPTS FROM AND PAYMENTS INTO CIRCULATION—TOTAL 1980

[In thousands of dollars]

Reserve bank/branch	100's Received from commercial banks	100's shipped to commercial banks	Net paid
Boston	369,274	857,650	488,376
New York	3,270,622	7,419,710	4,149,088
Buffalo	110,678	211,846	101,168
Philadelphia	406,301	594,632	188,331
Cleveland	96,108	230,966	134,858
Cincinnati	139,098	274,863	135,765
Pittsburgh	91,644	159,797	68,153
Richmond	384,260	484,055	99,795
Baltimore	278,922	398,981	120,059
Charlotte	338,627	394,929	56,302
Atlanta	244,052	267,970	23,918
Birmingham	127,894	175,657	47,763
Jacksonville	433,868	126,281	[1] (307,587)
Nashville	159,407	160,580	1,173
New Orleans	397,132	553,020	155,888
Miami	1,916,629	163,608	[1] (1,753,021)
Chicago	422,240	1,124,044	701,804
Detroit	148,951	438,000	289,049
St. Louis	114,560	195,072	80,512
Little Rock	66,302	84,638	18,336
Louisville	106,001	171,313	65,312
Memphis	62,213	105,327	43,114
Minneapolis	97,009	225,772	128,763
Helena	29,639	42,154	12,515
Kansas City	79,853	165,341	85,488
Denver	196,961	232,780	35,819
Oklahoma City	108,473	269,875	161,402
Omaha	79,855	85,393	55,538
Dallas	263,255	443,130	179,865
El Paso	89,203	179,120	89,917
Houston	108,740	411,055	302,315
San Antonio	235,730	174,965	[1] (60,765)
San Francisco	1,102,312	1,154,500	52,188
Los Angeles	1,241,529	1,618,800	377,271
Portland	59,994	104,245	44,251
Salt Lake City	75,203	65,000	[1] (10,203)
Seattle	84,363	261,690	177,327
System total	13,486,912	20,026,759	6,539,847
System averages	364,511	541,264	.....

[1] Net paid amounts indicate that the amount of currency received from commercial banks exceeds the amount of currency shipped to commercial banks.

Mr. SHAW. I would appreciate that, because we have had a lot of speculation. This might be very valuable to us, so we can put in proper perspective exactly how severe this is.

Mr. RYAN. Be happy to do that.

Mr. SHAW. That is all.

Mr. ZEFERETTI Our next panel is Mr. Masvidal, chairman of the board of the Biscayne Bank, and Mr. Charles Kimball.

We have your statements, and they will be made a part of the record.

You can read it, summarize it or proceed in any manner that you feel comfortable.

I thank you, by the way, for sitting and listening to all the testimony this afternoon.

TESTIMONY OF RAUL MASVIDAL, CHAIRMAN OF THE BOARD AND PRESIDENT, BISCAYNE BANK, MIAMI, FLA.

Mr. MASVIDAL. Since the term frustration and lack of cooperation has been heard over and over during this hearing, I would prefer just to refer to one practical experience I would like to share with the committee rather than read my entire testimony of which you have a copy.

Mr. ZEFERETTI. Your entire testimony will be made part of the record.

Mr. MASVIDAL. Let me say we are crying, and I am speaking of the banking industry in south Florida in particular, we are crying from cooperation from all sides as we also share the frustrations of the law enforcement agencies in fighting this intractable problem.

We would be extremely shortsighted, aside from immoral, to pretend that one can look the other way and allow your institution to be utilized to store or transfer the cash proceeds of drug trafficking.

I call for an aggressive stand on this issue. I call for an expanded cooperative approach on our part with regulatory authorities and enforcement officials.

I can see many ways through which a banker, without violating any laws, can assist investigators in prosecuting dope dealers.

This assistance can take many forms such as reacting with expediency to requests for information from law enforcement agencies in order to impede the maneuvering of funds beyond the reach of the law.

Another form is by providing nonrecorded information on any suspicious customer or activity.

By the same token, bankers could use some cooperation in being provided with information to assist them in the enforcement of the law.

I have just gone through another frustrating experience in this respect with my own bank.

Last February, in the program "60 Minutes," CBS aired a list of banks in Miami that had allegedly been utilized by a drug trafficker in laundering illicit money.

CBS alluded to the information stemming from a secret report of the U.S. Department of Treasury. My bank was one of those named. I immediately took steps to try to identify the transaction, customer or account and dates involved. Through the courtesy of the local CBS affiliated station I viewed a video tape of the program about five times looking for a clue. I ordered a full-scale investigation of transactions between our bank and the other banks named.

Finally, I decided to go to the source of the information itself, that is, CBS or the Department of the Treasury.

I also requested the assistance of the regulatory authorities with supervisory responsibilities over my bank.

The exchange of correspondence that took place during the ensuing months is attached herewith as part of my testimony. This is part of this file that you see right here.

At the end, I was basically referred from one agency to another and most of them, as you can see, claimed no knowledge of the

information or their inability to obtain the same from whoever had it.

For what it really matters, Mr. Chairman, I stand before you today without knowing in fact whether the allegations made by CBS were true or not, and if they were true, obviously a TV network seems to be more entitled to Government information and to divulge its contents selectively at its own discretion to 60 million viewers, for their own benefit than somebody who is concerned with cooperating in the prosecution of drug trafficking.

My point, in conclusion, Mr. Chairman, in that as a banker I have taken all of the steps I have considered necessary to prevent the utilization of our bank for drug money laundering activities.

We do not open accounts to strangers. We do not sell cashier's checks or transfer money for individuals who are not our customers. We have a strong program today to enforce compliance with the Bank Secrecy Act.

I have the burden of responsibility upon my shoulders to protect the integrity of our institution.

Our controlling stockholders have been in the banking business for over 100 years and intend to remain in it for the next century too. The preserving of their reputation and integrity on a long-term basis has to be foremost in my mind.

There is no way, and I repeat no way, I can see any possible permanent benefits to be reaped by any responsible banking institution in neglecting its moral obligation on this issue.

We are talking about the defense of our own community and our own children. To limit ourselves to the exact requisites provided under the act would be not only foolish but irresponsible.

We welcome attempts to increase the capabilities of law enforcement agencies to monitor and assure compliance with the Bank Secrecy Act. We do not consider the present requirements a colossal burden.

We have already received significant cooperation from the office of the comptroller of Florida and the FDIC in improving our approach to compliance.

We do feel that without expanded cooperation between the banking community and the enforcement authorities our impact on the overall effort is being severely curtailed.

The enemy may have occasionally infiltrated some of our financial institutions but at some point those who volunteer their efforts to this cause should also be willing to volunteer their own information to earn the trust of investigators. Most bankers, myself included, stand ready to do that.

Thank you, Mr. Chairman, this concludes my testimony. If you or any members have any questions I will try to answer them.

[The prepared statement of Mr. Masvidal follows:]

PREPARED STATEMENT OF RAUL MASVIDAL, CHAIRMAN OF THE BOARD AND PRESIDENT, BISCAYNE BANK, MIAMI, FLA.

Mr. Chairman and members of the Committee, my name is Raul Masvidal. I am the Chairman of the Board and President of Biscayne Bank in Miami, Florida. For your information this bank is a state chartered institution of approximately $89 million in total assets. The Bank is located in downtown Miami and was founded in 1973. I acquired controlling interest of the same in 1977 and subsequently, in 1978, allowed Portuguese interests to acquire majority ownership. Prior to my association

with this bank I was President and Chief Operating Officer of Royal Trust Bank of Miami, N.A. and prior to that I was a Resident Vice President of Citibank of New York assigned mostly to the Caribbean area.

My purpose is to provide you with an overview of the problems faced by banks today arising from the cash flow generated by drug trafficking and the effectiveness of the reporting requirements under the Bank Secrecy Act in providing law enforcement agencies with the necessary information to prosecute drug traffickers. I should make special emphasis at the start that I can speak with firsthand knowledge about my bank only and my personal experiences as a banker for the last 15 years.

American history is being re-enacted in South Florida. The days of the Old West—cowboys vs. indians—are being revived. As in the old days too, the cowboys seem to win most of the time. Decent people are now the modern day "indians" and we seem to be fighting with inferior weapons against an aggressor that basically has established a regime of terror to rule the land. Bankers too are victims of this regime of terror.

We seem to be trapped to the crossfire between the law enforcement agencies and the public opinion. We have an obligation to our customers to protect their rights to financial privacy as required by law. Frequently this protective attitude has been misinterpreted, and perhaps with reason, as a lack of cooperation with criminal prosecution by the law enforcement agencies. This presents a problem. Above all our duty is to society and more specifically to the community in which we work and live. Drug trafficking has put in peril the entire fiber of a society. As bankers we do have an obligation that stands above and beyond any other: that of being good citizens. Thus our cooperation in combating the criminal elements involved in drug trafficking is not an option. It is our duty to the same society where our customers earn a living so that the need for a bank arises. We must go beyond the letter of the law. We can not allow our institutions to be utilized by these criminal elements to hide or transfer the proceeds from illicit activities just because they seem to be better than us in finding loopholes.

The vast majority of bankers that I have discussed the problem with feel this way. I sense a lot of frustration on the other hand to have the law enforcement authorities consider us as part of the enemy. Our industry's image has been badly tarnished by a few individuals without scruples.

In one of the banks that I was previously associated with I personally suffered the effects of this reality upon facing the disgraceful discovery of accounts showing unusual patterns of cash transactions under the protective mantle of cooperating members of the staff. The end result of this unhealthy environment is that we operate in an atmosphere where we breath fear.

As a matter of fact upon receipt of your letter of invitation to testify before this committee I contacted some bank officials to obtain their opinions and comments on the subject. I found a significant degree of reluctance to discuss it. Most indicated that the less it's aired in public the better. In the past, efforts by some of my colleagues to organize task forces or committees to confront the problem have not found many receptive ears. My own efforts in this respect have also proven fruitless. Purely out of fear to attract additional attention from the media.

It's the ultimate sense of frustration. We have taken all kinds of measures, established new controls, created double control points and gone to extents that sometimes have created a police state situation within a bank.

I don't regret seeing all of this take place if I could state categorically to you today that we are invulnerable. But the problem is that we still aren't. It has to be tragic when I as a banker read the headlines of our newspapers and run across another article about drug money being discovered at some bank.

My first reaction is one of hope that I will not find the name of my bank. The mere mention of your bank's name as having been unknowingly utilized by a drug trafficker to conduct some of his illegal activities, is a severe blow not only to the institution but to its management, its directors and of course their families. Perhaps ironically all of this has brought the level of awareness on the part of the bankers as to the magnitude of the problem to a point where the law enforcement bodies felt it was necessary to obtain the cooperation of the bankers. This brings me to the point that I will try to make the central theme of this testimony: "Cooperation."

Mr. Chairman, your letter inviting me to appear before this committee also indicated that you wished me to address the issue of the effectiveness of the reports required by financial institutions as well as the impact on the banking community of involved regulatory schemes that will enhance financial investigations.

Putting it in simple terms, as a banker, I welcome this approach and appreciate this committee allowing me to voice my comments. However, to answer the specific questions of the effectiveness of the report I would like to refer to the title of a 214-page report issued in 1979 by the General Accounting Office: "Gains made in

controlling illegal drugs, yet the drug trade flourishes". I think the same is applicable today to the effectiveness of the reporting requirements under Title 31.

We are crying for cooperation from all sides as we also share the frustrations of law enforcement agencies in fighting this intractable problem. It would be extremely short-sighted, aside from immoral, to pretend that one can look the other way and allow your institution to be utilized to store or transfer the cash proceeds of drug trafficking. I call for an aggressive stand on this issue. I call for an expanded cooperative approach on our part with regulatory authorities and enforcement officials. I can see many ways through which a banker, without violating any laws, can assist investigators in prosecuting dope dealers. This assistance can take many forms such as reacting with expediency to requests for information from law enforcement agencies in order to impede the maneuvering of funds beyond the reach of the law. Another form is by providing non-recorded information on any suspicious customer or activity.

By the same token, bankers could use some cooperation in being provided with information to assist them in the enforcement of the law.

I have just gone through another frustrating experience in this respect with my own bank.

Last February, in the program "60 Minutes" CBS aired a list of banks in Miami that had allegedly been utilized by a drug trafficker in laundering illicit money.

CBS alluded to the information stemming from a secret report of the U.S. Department of Treasury. My bank was one of those named. I immediately took steps to try to identify the transaction, customer or account and dates involved. Through the courtesy of the local CBS affiliated station. I viewed a video tape of the program about five times looking for a clue. I ordered a full scale investigation of transactions between our bank and the other banks named. Finally, I decided to go to the source of the information itself, i.e., CBS or the Department of the Treasury. I also requested the assistance of the regulatory authorities with supervisory responsibilities over my bank. The exchange of correspondence that took place during the ensuing months is attached herewith as part of my testimony. At the end, I was basically referred from one agency to another and most of them as you can see claimed no knowledge of the information or their inability to obtain the same from whoever had it.

For what it really matters Mr. Chairman, I stand before you today without knowing in fact whether the allegations made by CBS were true or not, and if they were true, obviously a TV network seems to be more entitled to government information and to divulge its contents selectively at its own discretion to 60 million viewers, for their own benefit than somebody who is concerned with cooperating in the prosecution of drug trafficking.

My point, in conclusion, Mr. Chairman, in that as a banker I have taken all of the steps I have considered necessary to prevent the utilization of our bank for drug money laundering activities. We do not open accounts to strangers. We do not sell Cashier's Checks or transfer money for individuals who are not our customers. We have a strong program today to enforce compliance with the Bank Secrecy Act.

I have the burden of responsibility upon my shoulders to protect the integrity of our institution.

Our controlling stockholders have been in the banking business for over a 100 years and intend to remain in it for the next century too. The preserving of their reputation and integrity on a long term basis has to be foremost in my mind. There is no way, and I repeat no way, I can see any possible permanent benefits to be reaped by any responsible banking institution in neglecting its moral obligation on this issue. We are talking about the defense of our own community and our children. To limit ourselves to the exact requisites provided under the Act would be not only foolish but irresponsible.

We welcome attempts to increase the capabilities of law enforcement agencies to monitor and assure compliance with the Bank Secrecy Act. We do not consider the present requirements a colossal burden. We have already received significant cooperation from the Office of the Comptroller of Florida and the FDIC in improving our approach to compliance. We do feel that without expanded cooperation between the banking community and the enforcement authorities our impact on the overall effort is being severely curtailed.

The enemy may have occasionally infiltrated some of our financial institutions but at some point those who volunteer their efforts to this cause should also be willing to volunteer their own information to earn the trust of investigators. Most bankers, myself included, stand ready to do that.

Thank you, Mr. Chairman this concludes my testimony. If you or any members have any questions I will try to answer them.

Mr. ZEFERETTI. Thank you very much.
Mr. Kimball.

TESTIMONY OF CHARLES KIMBALL, REAL ESTATE ECONOMIST

Mr. KIMBALL. Real estate in south Florida is big business.

A survey we recently completed covering the year ending the second quarter of 1981 showed that in the three south Florida counties, there were 3,215 sales of commercial property and land for $300,000 or more each.

This generated a business level in the three counties of $4.3 billion.

My firm uses the transactions of property for appraisal purposes and for our consultation assignments with many major lenders, including several large New York banks, so we analyze every transaction of this kind, and as a sideline to my work which includes for many years consultation assignments with the Florida Department of Law Enforcement and other agencies, we have been analyzing which of those transactions involved purchases by foreigners.

During that year's period in south Florida out of the 3,215 major sales, 1,127 were purchases by foreign individuals or offshore corporations.

Again, cooperating with law enforcement authorities, we have taken out of that 1,127 purchases, and we have found 446 of those amounting to some $683 million which we can trace to some type of illicit and illegal funds.

One of the specific studies that I made, and one which dates back in part to work I did with the Internal Revenue Service in the early seventies, was an analysis of the source of funds which are used to buy properties here in south Florida through offshore corporations.

I am specifically concerned about the corporations from the Netherlands Antilles, Cayman Island, and Panama, along with other jurisdictions where corporate regulation in those countries is virtually nonexistent or else the law permits absolute secrecy in terms of the flow of funds in and out of the companies or information as to whom the stockholders might be.

We have this analysis in the form of a chart here, and it shows, this chart shows two columns: One, the result of a 1979 study which was used for testimony before the Nunn committee in Washington, and then a more recent study which was completed specifically for this committee.

Mr. ZEFERETTI. Can I interrupt you?

How do you compile those figures?

Mr. KIMBALL. By taking all of the transactions in a particular class and analyzing them by our knowledge.

Mr. ZEFERETTI. Yes, but how do you find out that the mafia is 20 percent, and foreign tax evasion is 30 percent, and how do you make that determination?

Mr. KIMBALL. The way, these are actually good estimates, and I can tell you how we make the determination.

There is a substantial amount of intelligence available about criminals in south Florida. You have heard testimony that there are over a 1,000 major narcotics dealers here.

Many of those people have been arrested, and search warrants executed, and searches made in their homes, and some of which I have even been on and many documents have been found indicating their connections.

In the case of an example which I was going to discuss, let's see how finding a relationship with one Netherlands Antilles corporation then leads us to others that may have similar officers or nominees holding office in these companies.

Sometimes the narcotics traffickers themselves sign documents which are a matter of record concerning these corporations, and in the case of the example I have here today which is called Narcotics Financier B.

This individual who was recently arrested and charged with crimes actually signed as an officer of a great many corporations, When he was identified as a person being involved in narcotics money, it was impossible to look at all these corporations that he was signed as an officer and collect them together.

While the arrival of new corporations is very, very, substantial, it has been possible over the years to go back to where we have collected this total information and break down the companies into those which we have knowledge of in general, as to where the sources of funds come, so these are our best estimates made on rather circumstantial evidence at times, but which are the best information available.

I have not heard from anybody else who has made any studies in these fields or has any better estimates of where this money comes from.

Now, you have to remember what I am talking about, when I talk about offshore corporations, I am talking about four out of ten of the foreign investment transactions.

The other six out of the ten are transactions which would appear to have some legitimacy in terms of movements of money into this country, but it is through the anonymous corporations we especially find over and over again, it is these vehicles being used by the narcotics financiers and drug dealers, and so we have developed estimates certainly as to what percentage of these companies are being used for various purposes.

You have to remember, use in the Netherlands Antilles corporation has no special legitimate reason in terms of use at the present time over a Florida corporation or a corporation from some other State in this country.

The only reason to use that corporation now is the anonymous nature which you can gain through your ownership of that firm or the movements of funds in and out of the accounts of that firm, and so what we have is a very, very serious problem in terms of all law enforcement activity, especially IRS and banks in dealing with offshore corporations, because these corporations frequently only appear not with cash, but with checks from offshore banks, and so these estimates are the best ones that we have, and we have found increasing numbers of these firms being utilized by the narcotics dealers in the world making investments here.

Talking about foreign tax evasion, I am talking about flight capital which comes here from countries where the exportation of capital is essentially illegal.

I am talking about the U.S. mafia. We have some very, very good evidence from various law enforcement sources indicating much of the profits of organized crime in terms of cash, that this cash is taken out of the country, reinvested here through these anonymous corporations. That way the nature of the investors who backed these companies can be kept in rather strict confidence in many cases, but there are people who have to administer these investments and people who oversee them and over the years it has been possible, since I have been watching this activity in south Florida, to form a pretty well considered opinion of these activities.

I hope I will be able to be more specific and name some of these corporations and give you examples which are very well documented which would be sufficient to convince you of the seriousness of the concern we have about the use of these offshore companies in these foreign areas.

We have a large number of categories, and there are some legitimate reasons for the use of these foreign corporations, but I am not sure exactly what they would be in this present financial climate throughout the world, so we have many categories.

We know, for example, that people like international swindlers such as Mr. Vesco and other have large sums of money. Where is this money? Much of it can easily be invested secretly and come back into this country through the vehicle of the offshore corporations.

You can see, first of all, foreign investment is substantial and that the use of these foreign corporations is significantly large in south Florida, and I think you can see that the advantages of having these investments, more or less, secretly concealed through these devices is something which is very important to these dealers because, after all, what is the reason and motivation of being in the narcotics and drug business?

It is to make money and secure yourself in a very comfortable, luxurious position in life, and this is what we have to deal with when we deal with the end result of all this criminal activity, and this is where we are when we are dealing with real estate, because real estate in total in south Florida and everywhere is the least monitored type of business transaction.

If somebody buys a million dollar apartment building, there is no place, no agency that monitors such transactions and the amount of cash involved, and there is no place that this has to be reported to and, therefore, real estate affords the greatest degree of unregulated, unaudited activity of any type of business transactions around.

I want to refer to the table in my testimony, in my prepared statement, which refers to wholesale narcotics dealer A.

To briefly give you a sharp picture of the way we can see this type of activity taking place and the consequences of using these offshore corporations, what they are to our financial and economic structure.

The wholesale narcotics dealer A, is a person who has been arrested, but never convicted.

He first purchased a house in Dade County in 1978 for $99,500, and you can see how he has risen to a substantial degree of affluence in a very short time by dealing in narcotics.

By May of 1979, 5 months later, he moved to a $230,000 house. Of all the five houses he bought in the last 2 years, he has only sold to others one of them, and that was it. He has kept all the others. June of 1979, he purchased another one for $250,000. October of 1979, a $200,000 house, and then in August of 1980 in the city of Miami, $232,300 house, and in Coral Gables he purchased for cash a $675,000 home.

Meanwhile, this individual set up a large number of offshore corporations, Cayman Islands, Panama, and Netherlands Antilles, and during the same period he acquired large numbers of investment holdings in Dade and Broward County.

Much of these holdings, and a favorite type of investment is in homebuilding land, and I have listed the different types of properties.

They range from a small warehouse near the Miami International Airport that costs $80,000 up to $100,000 worth of homebuilding land.

The properties that this individual acquired in a 2-year period came to some $2.8 million of initial acquisitions.

Not too many months ago almost all the investment properties were sold. They were sold for what appeared to be in terms of what is in the records all cash over the previous purchase prices.

The properties that cost $2.8 million were sold for $6.2 million. The new owners were laundered at the Netherlands Antilles—different entities are now believed to be totally under the control of the same individual, but through this device of laundering through Netherlands Antilles and foreign corporations, these properties, this narcotics financier was able to earn capital gains of $3.4 million in a period of a year, and I don't know of any Bank Secrecy Act or any other devices which clearly call for the reporting of these funds which were deposited in south Florida banks and checks drawn from out-of-the-country banks.

So I think you can see when we come to the end consequence of all this criminal activity, that we have serious problems which dwarf anything perhaps that we have thought about so far today.

The consequence of this huge investment flow, and it involves every type of property from office buildings to country clubs, even to the acquisition of some banks, is something which is staggering in south Florida.

Who knows what is happening elsewhere in the country where nobody is making any kind of study?

South Florida has been a favorite of the criminal element for years.

In my prepared statement I indicate that my studies that I have made for other hearings in past years for law enforcement agencies are the old-time criminals, Mafia, a huge network of lawyers, accountants, other professionals, managers, developers and builders, and so on, who help these criminals in their criminal activity in terms of legitimatizing their profits and these networks of professionals never were people who have been publicly identified yet, but could be, if there were proper investigations, have gained positions of power.

A prominent front man, for example, for organized crime, has held a position of the president of the Chamber of Commerce.

We have judges who, if it were only known, have as business partners organized crime figures, and this type of infiltration who make campaign contributions and encourage and influence legislation, and for many other causes and purposes, all to increase their power and influence are a serious problem. But the sheer dimensions and millions and millions of dollars that have come into this area, even more disturbing are the real estate industry for it has created an artificial economy in real estate where the bidding up by foreign investment who have flight capital, have bid up properties to where every single person who lives in these communities has to pay a price.

So much of the homebuilding land and vacant lots available for houses was purchased by funds from out of the country that they virtually took over the market. New home prices rose in south Florida an average of $20,000 per house just in the last year.

In our previous testimony we indicated this money attributable simply to narcotics funds added $2,000 per house to homes in south Florida, but it may have added another $5,000 in the last year.

When these people buy warehouses and office buildings and begin to bid up the price of every type of income property, that ultimately the cost of these income properties and the cost of renting must be passed on the the cost of goods and grocery stores, and so we have a problem, when we permit the legitimatization of the profits of crime that it influences and changes the nature of our community, and this is what is happening in a rapid rate in south Florida.

Thank you, gentlemen.

[The prepared statement of Mr. Kimball follows:]

PREPARED STATEMENT OF

CHARLES KIMBALL

Real Estate Economist

Charles Kimball is a real estate economist affiliated with AREEA Inc., an appraisal and real estate research firm. AREEA Inc. clients include major financial institutions and developers. He has been cited for his studies in the Wall Street Journal, New York Times, Forbes, Barrons, U.S. News & World Report, Readers Digest, and has been interviewed on Good Morning America and 60 Minutes. In 1968 he testified at the hearings held in Florida by the Shevin Committee and in 1979 before the Nunn Committee in Washington. Since 1968 he has cooperated with the Florida Department of Law Enforcement and other agencies in collecting and analizing information about the investment by criminal syndicates of funds into business and real estate enterprises in Florida. He is a special writer on real estate for the Miami Herald and a commentator on WINZ. In past years he has made several special studies and presentations on foreign investment in conjunction with agents of a federal agency. These studies were used in part as a basis for today's testimony.

During the 12 month period ending July 1, 1981, there were 3,215 real estate transactions of $300,000 or more completed in three county area of Palm Beach, Broward, and Dade counties. These sales included all land and commercial income properties sold in South Florida. Every one of these sales was analized in detail and special cards were prepared for this purpose. Out of the 3,215 purchases in the year, 1,127 or 35% were made by foreign corporations or individuals. Based in an extensive analysis of all such sales for a three year period, it would appear that 446 or 40% of all purchases originating out of the country were made with illicit funds.

In terms of dollar volume during the year surveyed, the major transactions generated $4.3 billion in business. In the three counties the foreign share of this business came to 34% of the total of $1.47 billion. Out of the $1.47 billion in foreign acquisitions about 47% reflect funds from illegal sources. In just one year, then, $683,038,500 has been invested in South Florida real estate acquisitions. Of this amount up to 50% represents the cash positions of the criminal element in these investments.

In a series of conferances and discussions with agents of several agencies over a period of years, a special effort has been made to analize the sources

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of funds coming into south Florida through offshore corporations. These especially include corporations domiciled in the Cayman Islands, Netherlands Antilles, and Panama along with some from Liechtenstein, the Jersey Islands, Liberia, and a few other jurisdictions. Though some criminal groups invest in their own names and through domestic corporations, since the early seventies the use of anonymous corporations from out of the country has become the favorite vehicle for the holding of real estate here. These are even preferred over the secret land trusts and nominee systems of investment utilized in the forties, fifties, and sixties by American based criminal investment groups here.

A comparison with the illicit investment patterns analized in 1979 and the current market reveals a dramatic shift in the sources of funds. While a best estimate made two years ago was that 10% of the "hot" money here was from narcotics traffic profits, today illegal drug dealings produce sufficient profits to account for about one-third of the criminal financed investment activity in South Florida. In addition it should be noted that Mafia investments reflecting money shipped out of the country and then back in to purchase real estate may in part also originate from marcitics traffic along with profits from all other criminal enterprises controlled by the Mafia. South Florida is also the recipient of funds brought here in violation of tax and currency export laws of other countries. This illegal flight capital is in contrast with money that "flies"here legally from countries like Germany and Canada. Foreign criminals and international swindlers also invest their funds here through offshore corporations. Finally there are those funds invested here which originate from American tax evaders. All these categories and their relative position in the illicit investment picture here are tabulated on an attached chart.

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Several specific examples of investment empires assembled by major narcitics traffic figures are given for analysis. These are typical of the many such empires which exist in South Florida. at the present time and whose growth continues virtually unchecked and in some cases unaudited.

The first of these is narcotics financier B. This individual is currently facing criminal charges. Investments he has made along with members of his family and other partners in Dade County in a two year span come to $8,351,000. Financier B's six partners and one set of nominees are Bogata base Partner number 7 is, according to international intelligence, the major financier in Columbia of narcotics exports from that country. In addition to the holdings of $8.3 million in Dade County, Financier B along with other associates has even larger holdings in Broward County. He currently lives in Palm Beach County and is having a new home completed in Broward County at a location on the Intracoastal Waterway. Financier B uses Netherlands Antilles firms along with others from the Cayman Islands and Panama.

The second shart covers Narcotics dealer A. This individual has been charged but escaped conviction. His status as a major dealer has only recently been concluded based on the size of his real estate holdings. Dealer A has purchased $1,687,000 worth of homes in Dade County most of which he retains in his own name. In 1979 and 1980 using Cayman Islands nominees dealer A purchased $2,817,000 worth of investment properties in Dade County. Most of these acquisitions were through offshore corporations. Very recently most of these properties were resold in a lauddering operation. The sales prices on resale came to $6,245,000 with the markup being all cash. Under this laundering operation the holdings were sold by one group of foreign corporations to others. Asa result the sellers gained $3,428,000 in

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SOUTH FLORIDA FOREIGN INVESTMENT

One Year/ Ending Second Quarter 1981

Commercial Real Estate Sales Over $300,000

I.	All Sales		Foreign Investment		Illicit Investment	
Dade	1,690	$2,209,100,000	751	$937,600,000		
Broward	935	$1,213,500,000	240	$318,300,000	—	
Palm Beach	584	$883,400,000	136	$212,800,000		
Total	3,215	$4,306,000,000	1,127	$1,468,900,000	440	$[illegible],038,500

SOUTH FLORIDA FOREIGN INVESTMENT

One Year/ Ending Second Quarter 1981

Commercial Real Estate Sales Over $300,000

II.	All Sales		Foreign Investment		Illicit Investment	
Dade	1,568	$2,391,300,000	665	$1,032,500,000		
Broward	841	$975,900,000	254	$381,700,000		
Totals	2,409	$3,367,200,000	919	$1,414,200,000	364	$544,075,200

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capital gains from what could be described as legitimate real estate transactions. This $3.4 million can now be used to invest in still further Florida enterprises.

During the Lansky era of investments in South Florida in land and motels, criminal syndicates established a statewide network of major real estate holdings. With this shear economic impact tiers of professionals became the employees and fronts of the criminal groups. In recent years illicit investment has escalated to the billions on a statewide basis. Along with this flow of funds has come a greater economic, political, and social influehce on the business climate of the State of Florida. Unless the needs of law enforcement are met in terms of greater capabilities in dealing with criminal investment, serious permanent damage to the State of Florida could result.

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OFF SHORE CORPORATIONS

ORIGINS OF FUNDS USED

IN SOUTH FLORIDA

	1979	1981
NARCOTICS DEALERS	10%	30%
U.S. MAFIA	20%	20%
FOREIGN TAX EVASION	30%	25%
FOREIGN CRIMINALS	10%	6%
INTERNATIONAL SWINDLERS	5%	4%
U.S. TAX EVADERS	5%	5%
CORPORATIONS OF CONVENIENCE	20%	10%
	100%	100%

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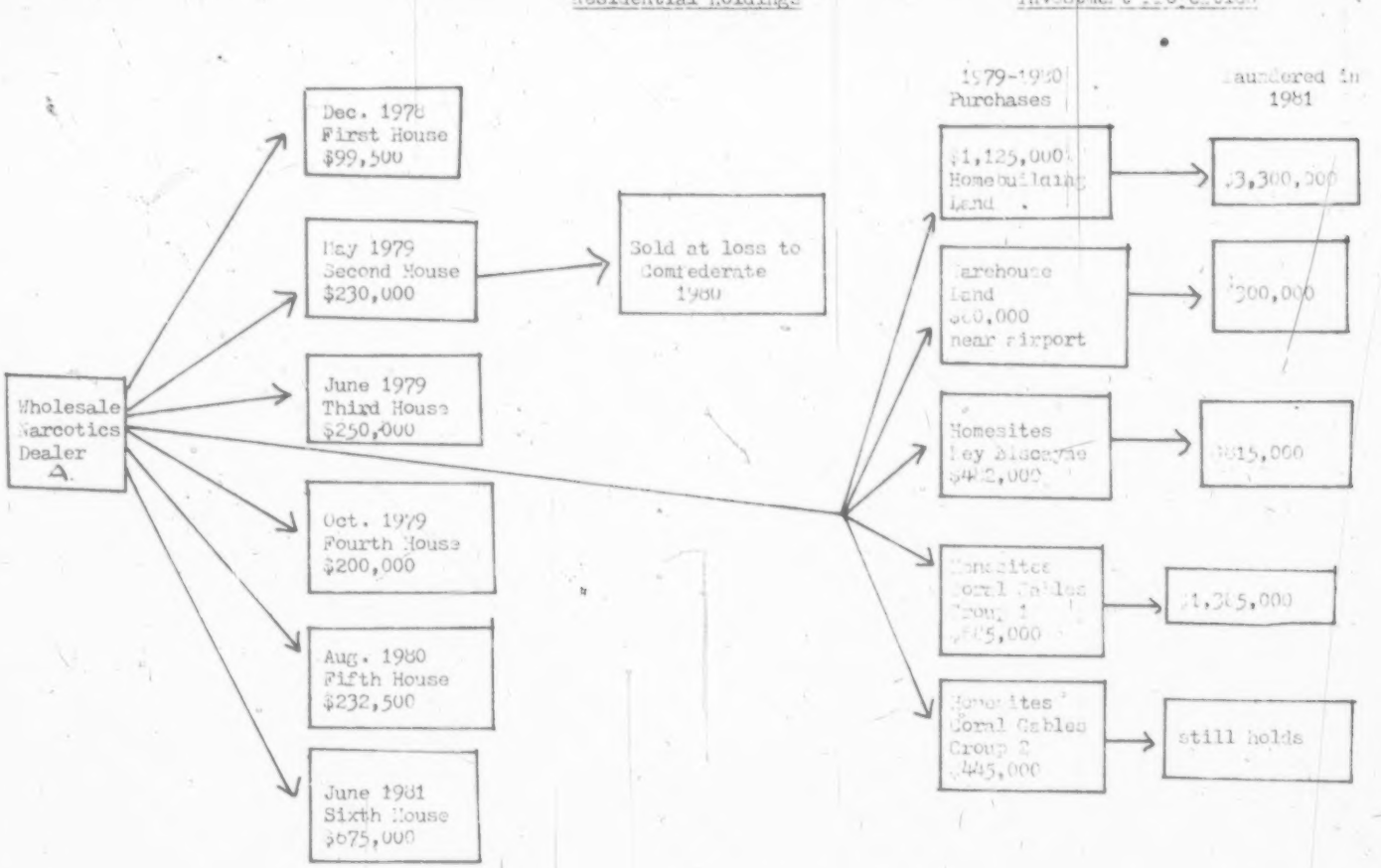

Mr. ZEFERETTI. Thank you for some very informative testimony.

Mr. Masvidal, I can't talk to the problems of what you have incurred with the CBS report or anything like that.

I am sure that you must have experienced great frustration.

However, we can talk to the point of getting you the kind of information and cooperation from Treasury. I don't know if you heard Mr. Powis' testimony earlier, as he responded to my question of whether or not the communication and the sharing of information can be something that the banking institution can depend on along with a more cooperative spirit.

He said that he would try to make every effort.

Beyond that, I can assure you that we will be monitoring the Treasury Department's efforts and if we can help you in any way to find out what may have occurred regarding the denial of information in response to a proper request, I am sure that we can get some answers.

I feel very, very strongly about the fact that you were not able to get the information you wanted, but more importantly I feel very strongly about not giving the institution the opportunity to share in the overall information exchange that is needed to get you to cooperate.

Since you were here for most of the day I saw you sitting in the back you can tell that most of the testimony expressed a willingness to cooperate, and I would hope that that is the case. If it is not, I would suggest to you, sir, drop us a line, and we would be more than happy to find out why.

Mr. MASVIDAL. Thank you, Mr. Chairman.

I do think we have had some improvement over the last 6 months, but more than a question of lack of coordination, it is a problem of a lack of trust.

The banking industry in south Florida, and particularly the smaller banks, are still viewed by the law enforcement agencies as part or maybe the potential enemy, and I think that at some point somebody has to trust somebody, and what I am saying is that if we are willing to open our books and open our records and cooperate with an investigation, we deserve at some point at least to share in the information that they have obtained so that we can take some action.

None of us want that kind of money going through our banks. No honest banker would want that, but unless we get some means for identifying those funds or identifying those criminals, there is nothing that we can do as far as getting them out of the bank or getting them not to participate in the banking system.

Mr. ZEFERETTI. Thank you.

Mr. Shaw.

Mr. SHAW. I have, my curiosity is somewhat piqued, more legal curiosity, but with regard to that, CBS would have a responsibility to have something in response, to back up what it said to make such an accusation.

What did your counsel have to say about that?

Mr. MASVIDAL. Our counsel drafted it, or helped to draft, the initial letter that we addressed to the Department of Treasury, since CBS claimed that the information had come from these so-

called secret reports that they obtained from the Department of the Treasury.

We went as far, and you can see from the correspondence in there, we sent as far as filing a Freedom of Information request with the Department of Treasury, and that produced no results.

Mr. SHAW. The thrust of my question is, though, we have certain laws regarding libel and slander if they can't back up what they say. They certainly have done great damage to your banks for which they should either be called forward to show the proof of the accusation, or they should be responsible for whatever damages they may have caused you to incur?

Mr. MASVIDAL. What you are sying is the crux of the problem with the banking industry, and the fear that we all face in antagonizing, or at least confronting the media.

Mr. SHAW. We are politicans, we have the same fear.

Mr. ZEFERETTI. I can assure you.

Mr. MASVIDAL. For example, there were several other banks named. Some of those other banks are major banks. The largest banking institution in the State was named.

Mr. SHAW. I think I saw that documentary.

Mr. MASVIDAL. When I consulted with the other banks about taking some joint action, most of the reactions that I got were "Look, let's keep it quiet. The less we talk about it, the better off we are. It will go away."

It really says we are operating out of fear more than anything else.

Mr. SHAW. Mr. Kimball, you made a very impressive chart which would indicate you have ways of knowing or at least some way of narrowing down which one of the real estate transactions involved were illegally obtained funds.

The example you cite on your chart is one that we all assume money like that does not fall out of Heaven, and probably it happened that way.

Me, as a landowner wanting to sell a piece of property, how would I know whether I was dealing with a source of legal or illegal money? If you come into a real estate closing with a suitcase full of hundred dollar bills, I would certainly suspect it might be illegally obtained money; but if it seemed to be going through, I enter into a contract with somebody as trustee whereby they can assign that contract or do anything they want to, you get into closing, and you see a surname that might lead you to wonder what country the money is coming out of.

At that point would my curiosity be piqued that I might be dealing in fact with this type of money?

Mr. KIMBALL. You have to weigh to protect yourself or to imform yourself, because if you list the property and the terms of your listing are met by the buyer, you must sell, so if you do have curiosity, I would hardly know to whom I would suggest you turn to find out what the person you are dealing with is somebody who is a narcotics dealer.

You are in the same position Mr. Masvidal is about some of his depositors. He may hope they are ligitimate. He does not have anyone to whom he may turn either.

We lack here in south Florida, for example, a functioning crime commission, or we lack a responsibility on the part of our State and local agencies, law enforcement agencies publicizing the publication of the names of people who are in the narcotics business.

Testimony today indicated over 1,000 substantial persons who live in Florida have been identified through arrests and other legal law enforcement activities as narcotics dealers.

I have seen the list, and when I go over the list, I see people who own properties, have business enterprises, and it is appalling to think that we do not have a way to help a responsible business public who want to do something about this to encourage them to take action on their own when it comes to a matter of dealing with their depositors and business people.

You have no way to protect yourself in terms of selling your own property at a very difficult time in terms of identifying whether or not a person who comes into your business with a suticase full of money is legitimate or not.

We need to beef up our efforts in terms of public education in banking.

Mr. SHAW. We, also as politicians, have the same problem with our contributors. I am sure if we knew the full background of each of the people that contribute money to our campaigns, it might be something that might be very frightening, but there is no way of knowing.

Mr. KIMBALL. It is impossible to clear everyone, and it is a very dangerous game.

The very people you don't want contributions from are most certain to try to make them.

Politicans are vulnerable in the State of Florida because the stakes are very, very high.

I have to sympathize with you, we have the same problem.

Mr. SHAW. As one unsolicited statement which has nothing to do with what we are talking about, I would say at the conclusion, I think it has been very obvious from this hearing, Florida has temendous problems and we do not have to add to them by bringing in casino gambling.

Mr. ZEFERETTI. Thank you, gentlemen.

That will conclude our hearings for today, and I want to thank my colleague, Mr. Shaw, for his hospitality, and thank Mayor Young for graciously letting us use this magnificent building and her offices and her staff and everything that goes with this wonderful office of mayor that she holds, and our gratitude is extended to her.

Thank you all very much.

[Whereupon, at 4:30 p.m., the select committee was adjourned.]

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